S. Hrg. 99-287

NOMINATIONS OF JENNIFER JOY MANSON, LAWRENCE J. JENSEN, AND ORSON G. SWINDLE III

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF JENNIFER JOY MANSON TO BE ASSISTANT ADMINISTRATOR FOR EXTERNAL AFFAIRS, ENVIRONMENTAL PROTECTION AGENCY; LAWRENCE J. JENSEN TO BE ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION AGENCY; AND ORSON G. SWINDLE III TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

SEPTEMBER 27, 1985

Printed for the use of the Committee on Environment and Public Works

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CONTENTS

Page

Stafford, Hon. Robert T., U.S. Senator from the State of Vermont, opening statement of 1

NOMINATION OF JENNIFER JOY MANSON

Warner, Hon. John, U.S. Senator from the State of Virginia 2
Manson, Jennifer Joy, nominated to be Assistant Administrator for External Affairs, Environmental Protection Agency 3
  Responses to a committee questionnaire 6
  Résumé 14
  Responses to additional questions from:
    Senator Stafford 19
    Senator Chafee 24
    Senator Mitchell 29

NOMINATION OF LAWRENCE J. JENSEN

Statements:
  Chafee, Hon. John H., U.S. Senator from the State of Rhode Island 55
  Bentsen, Hon. Lloyd, U.S. Senator from the State of Texas 56
Jensen, Lawrence J., nominated to be Assistant Administrator for Water, Environmental Protection Agency 57
  Résumé 81
  Responses to:
    Committee questionnaire 83
    Additional questions from:
      Senator Stafford 92
      Senator Chafee 96
      Senator Bentsen 104
      Senator Lautenberg 107
Minnesota, State of, letter from the Governor's Nuclear Waste Council 68

NOMINATION OF ORSON J. SWINDLE

Statements:
  Denton, Hon. Jeremiah, U.S. Senator from the State of Alabama 116
  Humphrey, Hon. Gordon J., U.S. Senator from the State of New Hampshire 118
  Bentsen, Hon. Lloyd, U.S. Senator from the State of Texas 120
  Mitchell, Hon. George J 122
  Lautenberg, Hon. Frank R 125
  McCain, Hon. John, a Representative in Congress from the State of Arizona 126
  Stafford, Hon. Robert T., U.S. Senator from the State of Vermont 127
Swindle Orson G., III, nominated to be Assistant Secretary of Commerce for Economic Development 127
  Résumé 132
  Responses to:
    Committee questionnaire 135
    Questions from Senator Lautenberg 146
  Commerce, Department of, Office of General Counsel, letter to Senator Stafford 145

NOMINATIONS OF JENNIFER JOY MANSON, LAWRENCE J. JENSEN, AND ORSON G. SWINDLE III

FRIDAY, SEPTEMBER 27, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:08 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Durenberger, and Baucus.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The committee will please come to order.

Good morning to all of you who managed to get in here in spite of the somewhat inclement weather. Our purpose this morning is to hear three Presidential nominees, two for positions at the Environmental Protection Agency and one at the Department of Commerce. We trust this will not be a stormy session or, at least, not an excessively stormy one.

We will hear first from Jennifer Joy Manson, nominated for the position of Assistant Administrator for External Affairs at EPA. I guess external affairs shows the Canadian influence on us.

Second, we will hear from Mr. Lawrence J. Jensen, nominated to become Assistant Administrator for Water, also at EPA. In this position, Mr. Jensen would be responsible for implementing provisions of the Clean Water Act and the Safe Drinking Water Act. The Office of Ground Water Protection would also be his responsibility.

After the EPA nominees, we will turn to the nomination of Orson G. Swindle to be Assistant Secretary of Commerce for Economic Development responsible for the Economic Development Administration and its programs.

We welcome this morning the senior Senator from Virginia, Senator John Warner, who will introduce Ms. Manson. We expect later that Senator Hatch from Utah will be here to introduce Mr. Jensen.

Senator Warner, we are glad that you made it in from out in Virginia. This morning the chairman found a neighbor's tree on his driveway which took us a little while to get out of the way, but, otherwise, everything was OK.

STATEMENT OF HON. JOHN WARNER, U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator **Warner**. Mr. Chairman, we thank you and members of your staff and others for making this hearing possible this morning in a timely fashion.

It is a very significant pleasure for me to introduce my former legislative director, Jennifer Joy Manson, a resident of Alexandria, VA, and nominated by the President to be the Assistant Administrator of EPA for External Affairs. I am very proud that Administrator Lee Thomas has asked her to lead EPA's communications and legislative activities. It is a very significant and heavy responsibility which this nominee is prepared to assume in every respect.

I have known Ms. Manson for nearly 9 years. I have always been impressed with her professionalism, intelligence, honesty, and dedication to serving the public. She is an effective and organized manager and knows how to work on a bipartisan basis to achieve the best policy results.

Mr. Chairman, Ms. Manson brings to EPA an impressive and varied background of achievement. She attended high school in Norfolk, VA, and then graduated from the University of North Carolina. As a member of the White House staff, she worked on national domestic issues. Later, she became the chief of staff for the former distinguished Governor of Virginia, John Dalton. Subsequently, she joined my staff and became my senior legislative strategist and adviser.

Ms. Manson's ability to quickly grasp complex issues has enabled her to effectively go to the heart of policy debates. I can't think of any better qualification than that to manage the Office of External Affairs for EPA.

I note, Mr. Chairman, that Ms. Manson's mother is with her today, and I would like to introduce Ms. Lee Manson to the committee. Her father, a former distinguished captain in the U.S. Navy, has been marooned due to the environment, as I understand it. Captain and Mrs. Manson deserve so much of the credit for providing the values and judgment by which Joy lives.

I know I speak for members of the Virginia congressional delegation, Governor Dalton, and especially myself in providing Ms. Jennifer Joy Manson our highest recommendation. She will undertake her responsibilities, as she has in the past, with the utmost dedication and integrity. I am confident she will do a truly outstanding job for the people of the United States, the President, and the distinguished Administrator of EPA, Mr. Thomas.

I thank you, Mr. Chairman. Ms. Manson, you are now on your own. Good luck.

Ms. **Manson**. Thank you.

Senator **Stafford**. Thank you very much, Senator Warner, for joining us this morning. Our committee appreciates your recommendation.

Ms. Manson, we would now be very happy to hear any statement you wish to make.

STATEMENT OF JENNIFER JOY MANSON, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR EXTERNAL AFFAIRS, ENVIRONMENTAL PROTECTION AGENCY

Ms. MANSON. Thank you, sir. Good morning.

It is my honor to be nominated by the President to serve as the Environmental Protection Agency's Assistant Administrator for External Affairs. As Administrator Thomas has emphasized before this committee, the degree to which EPA succeeds in protecting health and the environment is determined, to a great extent, by two things. The first is our ability to involve the public in carrying out EPA's mission. The second is our ability to work closely with the Congress, governmental agencies, and the private sector to design and achieve environmental progress.

Both objectives are shared by all EPA offices but are concentrated in the Agency's Office of External Affairs. After studying that office for the past 6 weeks, I am delighted with the nature of its mission and the quality of its staff. Both objectives are also familiar to me and have applied to my entire professional life.

I come to you from Senator Warner's office where I developed an appreciation of the time pressures, information needs, and intense negotiations which characterize Capitol Hill. One of the key functions of EPA's Office of External Affairs is liaison with and responsiveness to the Congress. EPA's Office of Legislative Analysis and the Office of Congressional Liaison focus specifically on the legislative process. Having spent the past several years in your branch of the Federal Government, I can apply that perspective at EPA.

Prior to working on the Hill, I served as the head of policy liaison activities for, and managed the personal staff of, Gov. John Dalton of Virginia. One of my responsibilities every year was to review each of the 800-some bills passed by the Virginia General Assembly prior to the Governor's final disposition. In carrying out my various duties, I worked closely with the Virginia Cabinet, our congressional delegation, the Federal executive branch, and multistate groups such as the National Governors' Association.

My White House staff duties required coordination with virtually all Federal departments and agencies in the preparation of policy updates for the President.

My experience in working with all levels of Government places me in good stead regarding two other EPA offices in External Affairs. The Office of Federal Activities handles liaison with other Federal agencies. Its functions include a program of recent focus by the Senate Environmental Pollution Subcommittee, and that is EPA's responsibility for wetlands management under section 404 of the Clean Water Act.

The Office of Private and Public Sector Liaison is the communications link between EPA and intergovernmental associations as well as private interest groups. This office complements EPA's strong regional administration. It also has a hand in coordinating the public information aspects of the Chesapeake Bay program.

Professionally, it was my privilege to have worked on the Bay program at the State level, at the congressional level, and now I look forward to continuing to work on it at EPA's level. My family used to live on the bay, and its restoration is also personally important to me.

The fifth office is Public Affairs. From nearly a decade of public service, I have come to appreciate the effort required to maintain an informed public. This is especially true for the regulatory functions of the Environmental Protection Agency. It is clear that EPA's mission is supported by the vast majority of Americans. However, the technical issues associated with making that mission a reality are not only complex but also ever-changing, and the public deserves to be adequately and continuously informed.

Educating people about a problem means involving people in the solution. Administrator Thomas has reiterated his support of effective citizen involvement in all Agency programs, with a special focus on those which may impact specific communities. The people who are most affected by EPA activities need to have timely access to explanations and guidance.

Administrator Thomas has also renewed EPA's commitment to operate with a maximum of candor and openness. To operate as though we work in a fishbowl for the world to see is a philosophy of good government which I applaud, and we will continue to ensure that the glass in EPA's fishbowl is clear.

Finally, reaching and maintaining environmental quality is not a one-shot endeavor. As Jefferson said of freedom, it requires "constant vigilance." If you approve my nomination, I will bring my experience from the White House, from State government, and from Capitol Hill to further the cause of protecting human health and the environment.

Thank you.

Senator STAFFORD. Thank you very much, Ms. Manson.

For you, Ms. Manson, and for the two other nominees which follow you there may be some questions submitted to you in writing from members who are unable to attend today's hearing and I hope that you and the other nominees will be agreeable to answering those questions in writing.

Ms. MANSON. Gladly, yes, sir.

Senator STAFFORD. May I ask if you are willing, at the request of any committee of the Congress that you appear as a witness, to do so without any reservation?

Ms. MANSON. Yes, sir.

Senator STAFFORD. Do you know of any financial interests or any attachments you might have to any interest that might bring you into a conflict of interest position if you are confirmed in this position?

Ms. MANSON. No, sir.

Senator STAFFORD. I am sure that Senator Chafee, were he able to get here, would want to pursue with you some questions with respect to national wetlands under section 404 that you mentioned in your statement. I will simply take this opportunity to emphasize my own interest, along with his, in the manner in which that very important provision of law is implemented and to let you know that I consider that program one of the most critical responsibilities that you are going to assume. I might say parenthetically that this committee is quite unhappy with Mr. Dawson in connection with the way the Corps of Engineers have been looking at section 404.

You noted that you have been observing the operation of the Office of External Affairs for about 6 weeks. Based on that experience, what do you believe should be your priorities if you assume leadership of the office? I am asking this question for Senator Chafee.

Ms. Manson. Thank you, sir.

My management priorities, sir, are to continue pulling the offices of External Affairs together as a team, in order to offer the best possible guidance to the Administrator, EPA regions, and Agency program offices. I think that establishing that cohesiveness was begun very successfully in the last 2 years under the new Office of External Affairs. I do not envision at this point any major organizational changes, and I think, by and large, the organizations are doing an excellent job of fulfilling their missions of involving, and informing the public, the Congress, State, and local government, and other Federal agencies.

Senator Stafford. Thank you.

One more question for Senator Chafee. Throughout our pollution control statutes is the policy that Federal agencies should comply with all the requirements that non-Federal entities must meet. What role will you and your office play in assuring that this policy is carried out?

If you would prefer to answer this in writing, that is agreeable to me.

Ms. Manson. EPA's responsibilities to see that the Federal Government fulfills the same requirements as mandated for non-Federal entities?

Senator Stafford. Yes.

Ms. Manson. In the Office of Federal Activities, we do have responsibilities for ensuring that other Federal agencies comply with the environmental statutes. We have specific authority under section 309 of the Clean Air Act to review other Federal agencies' activities, to help them reach compliance through identification of their budget needs, and to provide technical assistance from our programs. I would intend to make sure that that assistance from EPA would be continued.

Senator Stafford. All right, thank you very much, Ms. Manson. We appreciate your appearing here, I have no further questions.

Ms. Manson. Thank you very much, Mr. Chairman.

[Responses from Ms. Manson to a committee questionnaire and additional written questions follow:]

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name	MANSON (Last)	JENNIFER (First)	JOY (Middle)

Position to which nominated: Assistant Administrator, EPA, For External Affairs

Date of Nomination: 9/9/85

Phone: (o) (202) 382-5654

Date of birth: 1/10/53 (Day) (Month) (Year)

Place of birth: Naples, Italy

Marital status: Single

Full name of spouse: N/A

Name and ages of children: N/A

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Univ. of N.C. Chapel Hill, N.C.	1972-1974	BA-Speech	1974
George Mason Univ. Fairfax, VA	Summer 1972	-	-
Univ. of N.C. Greensboro, N.C.	1971-1972	-	-
Univ. of VA Charlottesville, VA	1970-1971	-	-
Granby High School Norfolk, VA	1967-1970	H.S. diploma	1970

Employment record: **List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.**

Consultant, U.S. EPA, Wash., D.C. - July 1985 to present

Executive Assistant to Sen. John Warner, Wash., D.C. - Jan. 1985-July 1985

Campaign Manager, U.S. Sen. John Warner '84 Committee, Richmond, VA June 1984-Jan. 1985

Legislative Director for Sen. John Warner, Wash., D.C. - Oct. 1982-June 1984

Senior Executive Assistant to Governor John Dalton, Richmond, VA- Jan. 1981-Jan. 1982

Executive Assistant to Governor John Dalton, Richmond, VA - Nov. 1977-Jan. 1981

Employment record—Continued

Director of Research, The Dalton Committee, Richmond, VA - June 1977-Nov. 1977

Administrative Assistant to the Deputy Special Assistant to the President (President Ford) - The White House - Aug. 1976-Feb. 1977

Executive Assistant to Director, President Ford Convention Committee Wash., D.C. and Kansas City, Mo. - May 1976-Aug. 1976

Administrative Assistant to the Director of Research, The President Ford Committee, Wash., D.C. - Sept. 1975-May 1976

Administrative Assistant to the Senior Vice President, Electronic Industries Association, Wash., D.C. - Sept. 1974-Sept. 1975

(Employment background in more detail attached) #1

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Graduated with honors, Granby H.S., 1970

Who's Who of American Women

Outstanding Young Women of America

Three gubernatorial appointments: Executive Assistant to the Governor; Senior Executive Assistant to the Governor; and Member, Youth Government Day Advisory Commission (with Virginia General Assembly confirmation)

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
U.N.C. Alumni Association		1975-present
YMCA		1980-1981
Virginia Historical Society		1979-1980
Virginia Museum Theater Guild		1979-1981
Youth Government Day Advisory Commission		1979-1982

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Having public policy and management experience in the executive and legislative branches of the federal government and, in state government, serving the Governor of Virginia, I believe I am qualified for administering and coordinating EPA's legislative analysis, public affairs, congressional, intergovernmental and federal agency liaison activities. In varying capacities, I have analyzed, assisted in the implementation of, interpreted, drafted policy guidance on, and advised on substantive state, local and federal issues, working with agencies and departments of the federal government, the Congress, other Governors' offices, local governments, state legislators and the public.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Currently, I am an EPA consultant. I have severed employment with my former employer, i.e., U.S. Senate.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Schedule C, White House 1976-1977 - Ford's term concluded.

Financial Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

Attached #2

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Although not required by SF 278, I would anticipate dividends from the stocks listed in Attachment #3

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

No

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I have been briefed by EPA's Ethics Officer on the applicable laws and regulations. See attached statement. #2

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

1984 - Warner campaign

1977 - Dalton campaign

1975 and 1976 - Ford campaign

Republican Party of Virginia - Member

Republican National Committee - Member

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

   None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

   Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

   No

AFFIDAVIT

JENNIFER JOY MANSON) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Jennifer Joy Manson

Subscribed and sworn before me this 17 day of September, 1985.

Mary J. Boifen
Notary Public

My Commission Expires October 14, 1988

Jennifer Joy Manson (Alexandria, VA)	Assistant Administrator for External Affairs, EPA
Present	Executive Assistant to Senator John Warner (Virginia)
1984 - 1985	Campaign Manager, Senator John Warner '84 Committee
1982 - 1984	Legislative Director, Office of Senator John Warner
1981 - 1982	Senior Executive Assistant to the Governor Dalton, Richmond, VA
1977 - 1981	Executive Assistant to the Governor Dalton, Richmond, VA
1977	Director of Research, The Dalton Committee, Richmond, VA
1976 - 1977	Administrative Assistant to Deputy Special Assistant to the President, The White House
1976	Executive Assistant to Convention Director, President Ford Convention Committee
1975 - 1976	Administrative Assistant to the Director of Research, President Ford Committee
1974 - 1975	Administrative Assistant to the Senior Vice President, Electronic Industries Association

JANUARY 1, 1985

HOME
1117-2C N. Pitt St.
Alexandria, VA 22314
703/683-5528

OFFICE
401 Russell Senate Office Bldg.
Washington, D.C. 20510
202/224-2023

JENNIFER JOY MANSON

EMPLOYMENT BACKGROUND

Managed successful statewide campaign for U.S. Senate; historic landslide results. Directed budget, finance, press, research and political operations with staff of 24, media and advertising consultants, and statewide organization of thousands of volunteers.	*Campaign Manager* *Senator John Warner '84 Committee* *Richmond, Virginia* *June 1984 - January 1985*
Directed Senator's legislative staff of seven professionals and three Congressional Fellows; responsible for information and advice to Senator for votes, legislative and administrative initiatives, constituent and press activities.	*Legislative Director* *Office of Senator John W. Warner* *U.S. Senate* *Washington, D.C.* *October 1982 - June 1984*
Chief of staff for office of 25; responsible for coordinating policy, correspondence, legislation, speechwriting, and administrative activities of staff. Liaison with Cabinet, General Assembly, other Governors, federal and local governments.	*Senior Executive Assistant to the Governor* *State Capitol* *Richmond, Virginia* *January 1981 - January 1982*
Governor's policy liaison. Directed staff of four. Staffed and represented Governor for all gubernatorial conferences. Responsible for translating gubernatorial policies to legislative and executive programs. Coordinated all legislation for Governor's veto or signature.	*Executive Assistant to the Governor* *State Capitol* *Richmond, Virginia* *November 1977 - January 1981*
Directed staff of six professionals and over 20 volunteers. Responsible for issues and opposition research for successful statewide campaign. As a senior campaign executive, assisted in strategy as well as utilizing survey research interpretation in advertising.	*Director of Research* *The Dalton Committee* *Richmond, Virginia* *June 1977 - November 1977*
White House Office of Communications. Assisted in coordinating over 350 Presidential responses to article and questionnaire requests from major national news publications. Researched state and local issues for Presidential policy briefings and news conferences.	*Administrative Assistant to the Deputy Special Assistant to the President* *The White House* *Washington, D.C.* *August 1976 - February 1977*
Assisted in coordinating over ten professionals in transportation, housing, credentialling and office arrangements for 1976 Presidential convention.	*Executive Assistant to Director* *President Ford Convention Committee* *Washington, D.C. and Kansas City* *May 1976 - August 1976*

Jennifer Joy Manson
Page Two

Employment Background (continued)

Supervised staff of four and outside consultants on behalf of superior. Edited and contributed to preparation of domestic issue position papers. Prepared part of state and local issue briefings for President's political travels.

Administrative Assistant to the
Director of Research
The President Ford Committee
Washington, D.C.
September 1975 - May 1976

Aided in producing Consumer Electronics trade shows in Chicago (fifth largest trade show in the country). Worked with consultants and member industries on multi-million dollar expositions.

Administrative Assistant to the
Senior Vice President
Electronic Industries Association
Washington, D.C.
September 1974 - September 1975

EDUCATION BACKGROUND

B.A. in Speech (communications), May 1974
University of North Carolina
Chapel Hill, North Carolina

Graduated with Honors, May 1970
Granby High School
Norfolk, Virginia

PERSONAL DATA

Health: Excellent
Date of Birth: January 10, 1953
Language: French
Personal interests: tennis, sailing, piano, travel, reading

Marital Status: Single
Lived abroad nearly six years:
one year Italy
four years England
nine months U.S. Virgin Islands

REFERENCES

Available upon request.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 16 1985

OFFICE OF
GENERAL COUNSEL

Mr. David H. Martin, Director
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

Dear Mr. Martin:

As required by 5 C.F.R. §734.604(c), I have reviewed the Executive Personnel Financial Disclosure Report submitted by Jennifer Joy Manson in connection with her nomination as Assistant Administrator for External Affairs of the Environmental Protection Agency.

I have determined that the report is complete and discloses no likely conflict of interest under applicable statutes and regulations. Accordingly, I have signed and dated the enclosed report. I have provided the nominee with a briefing on ethics and standards of conduct and the applicable statutes and regulations.

A statement of the organization and functions of the Office of External Affairs is also enclosed. Please call me at 475-8064 if you have any questions.

Sincerely,

Gerald H. Yamada

Gerald H. Yamada
Deputy General Counsel
Designated Agency Ethics Official

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 2, 1985

OFFICE OF
EXTERNAL AFFAIRS

MEMORANDUM

TO: Gerald H. Yamada, Deputy General Counsel

FROM: Jennifer Joy Manson, Consultant

SUBJECT: Financial Disclosure

As we discussed July 18th, below is a listing of my financial assets in stocks, bonds and securities.

It is again my understanding that I do not own stocks of sufficient value to report on my official financial disclosure form; however, I appreciate your keeping this record in the event there are any inquiries.

As of 7/29/85:

Stocks Held by Merrill Lynch	Number of Shares	Trading Value	Total Market Value
Giant Food	6	20 5/8	$123.75
Hechinger's	6	20 1/2	123.00
Perpetual American Bank Pfd.	26	22 3/4	591.50
Eastern Airlines	12	10 5/8	127.50
			$965.75

Merrill Lynch Cash Management Account (Miscellaneous "blind" securities)	$1524.00
IRA - TIGR Series 8	$2835.00
IRA - International Bank Recon.	$1687.00

Please advise me if there is anything further that I need to do with respect to the above.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
EXTERNAL AFFAIRS

OCT - 8 1985

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed for your review and consideration are responses to the questions you submitted following my confirmation hearing before the Committee on Environment and Public Works Works on September 27, 1985. Also enclosed for your inforinformation are responses to questions submitted by Senators Chafee and Mitchell.

Thank you for the opportunity to present my views on issues of particular importance to the Environmental Protection Agency's Office of External Affairs. I hope this additional information will be helpful to you and other members of the Committee.

Sincerely,

Joy Manson

Jennifer Joy Manson

Enclosure

QUESTIONS FROM SENATOR STAFFORD

Question 1: The EPA Indian Policy and Implementation Guidance set forth general principles and guidelines for the Agency in order to deal more effectively with tribal governments. The Policy clearly states that the Agency is committed to taking specific actions which will promote Indian "self government" and "government to government relations between the Federal government and tribal governments."

Do you support this position and will you work to implement it?

Answer: Yes. Tribal governments are sovereign entities with primary responsibility for the health and welfare of their people living on reservations. I will work directly with tribal governments rather than treating them as political subdivisions of states or other governmental units.

Question 2: As of today, EPA has published these guidelines and has taken some steps so far toward carrying out these specific commitments in order to maintain a good working relationship between EPA and Indian tribes. These steps include a small reallocation of money to support the Indian program in EPA. However, we note that the increase in money for Indian programs that has come about as a result of the Policy has been almost exclusively with the Office of Federal Activities (OFA) and not within the important allocations of individual programs responsible for Air, Water Quality and Toxic Substances.

As stated in the EPA Policy:

"Assistant Administrators, Regional Administrators and the General Counsel should begin to factor Indian Policy goals into their long-range planning and program management activities, including Budget, Operating guidance, management accountability systems and performance standards."

As the Agency official responsible for coordinating the implementation of the Indian Policy what steps do you intend to take to insure that EPA media programs themselves reallocate a proportional share of their funds to carry out reservation programs as called for in the Policy and Guidance?

Answer: Briefing the Administrator and the Assistant Administrators, several of whom are new, on the EPA's Indian Policy, its progress to date, and the need for specific commitments to the program is, in my view, an important duty of the Assistant Administrator for the Office of External Affairs (OEA). I would endeavor to ensure that the OEA staff would be available to work with other program staffs in developing initial commitments, and that work continues within the Agency to focus attention on Indian issues.

Answer Cont.:
For FY 1986 Regional Administrators are committed to outreach programs and technical workshops with tribal governments as a part of the Agency's Strategic Planning and Management System, and will be held responsible by the Administrator for meeting these commitments.

Question 3: The EPA Indian Policy expressly recognizes the historic trust responsibility between the Tribes and the United States. In light of this policy declaration how does EPA plan to allow Indian tribes to assume regulatory authority and at the same time fulfill the trust responsibility?

Answer: EPA will assist tribal governments in preparing to assume, where possible, program and regulatory responsibilities for reservation lands. Until tribal governments are prepared for the assumption of such responsibilities, EPA will manage the programs but give tribal governments ample opportunity to participate in policymaking.

Question 4: The Policy further states that EPA will actively seek amendments to the environmental statutes, regulations and work on selected pilot programs. EPA has made a commitment to seek statutory amendments to allow tribes to participate with EPA in the protection of reservation environments. The Administration's Clean Water Act proposals included such an amendment which would treat tribes as states throughout the statute except where that would be administratively infeasible.

Can we expect EPA to continue to carry out the policy commitment as you have done with the Clean Water Act by seeking similar amendments to the other EPA statutes, such as the Safe Drinking Water and the Clean Air Acts?

Answer: Yes. EPA has suggested a similar amendment to both the Superfund reauthorization bill and the Safe Drinking Water Act currently pending in Congress.

Question 5: Indian tribal reservations comprise approximately 3% of the Nation's land. What percentage of the EPA Budget is now being spent on responding to reservation environmental problems?

Answer: In FY 1985 the Agency spent approximately $3.5 million, or close to 1% of its total abatement, control and compliance account on environmental programs relating to Indian reservation lands. In addition, EPA spent approximately $1 million on Superfund-related projects from the hazardous substance trust fund, and approximately $1.2 million on wastewater treatment

Answer: from the construction grant allocation in implementing the Indian Policy.

Question 6: What percentage of the EPA Budget do you think would constitute an appropriate or proportionate amount? And if this amount is different than the 3% that Indian lands represent Why?

Answer: EPA's budget recommendations to the Congress are focused, to the extent possible, on the most critical environmental needs of the Nation as a whole. Land mass in itself does not necessarily correlate with the nature or extent of pollution problems. EPA has funded a national survey of environmental priorities on Indian lands in order to compile information on current and potential environmental problems, and it is expected that the survey will be completed by next summer.

Question 7: When the states were beginning to develop programs it was understood that additional monies would be needed at the "front end" for these developmental costs.

Are you considering these additional "front end" costs in your figure for an appropriate or proportional percentage for the protection of Indian reservations? If not, why?

Answer: As EPA's statutes are amended, program grant monies will become available for eligible tribes to use in the development of regulatory programs. In the interim, the Agency is focusing, within its current resources, on technical assistance and pilot projects.

Question 8: The EPA Indian Policy is a commitment by EPA to place a strong emphasis on incorporating Tribal governments into the operation and management of EPA's programs. EPA states during the first year of implementation:

"the first year's implementation effort will emphasize concentrated work on a discrete number of representative problems through cooperative programs or pilot projects."

The Navajo Tribe currently participates in an EPA "Air Pilot Project" for which a training component was omitted, presumably for lack of funds.

If your Policy is to build tribal capability for dealing with environmental problems it would seem that training and capacity building in general would be a top priority in any tribal project.

Question Cont.:
Would you comment on this? And do you expect to push for additional funding to include a "capacity building component" into the Navajo Air Pilot Project?

Answer: The development of tribal capability for dealing with environmental problems is an important issue. The Navajo Air Pilot Project was funded in FY 1985 jointly by the Office of Federal Activities and EPA's regional offices, and there were insufficient funds to support the entire proposal. I plan to explore with EPA's Air office and the regional offices the FY 1986 funding of the "capacity building component of the pilot project.

Question 9: The Indian Policy also states: "The Agency will incorporate these Indian Policy Goals into its planning and management activities, including its Budget, Operating Guidance, Legislative initiatives, Management Accountability Systems and ongoing Policy and Regulation Development Processes."

In Fy '86 approximately $700,000 was made available to EPA Indian programs, of that amount a small percentage went to Regional Pilot Projects.

What criteria are EPA using to award grants to tribes?

Answer: In FY 1986, EPA's provision of technical assistance to Indian tribes will continue to have a high priority within the Office of Federal Activities' Indian Program.

In FY 1985, EPA initiated four pilot projects, jointly funded by the Office of Federal Activities and program offices in the regions. These projects generally involved the development of regulatory programs. They were basically "ready-to-go" and were structured such that the results of the project, including the problems encountered and lessons learned, could be disseminated to other tribes upon the projects' completion.

Question 10: What specific steps is EPA taking to work with tribal governments to develop long range planning?

Answer: EPA will increase its outreach efforts with the tribes, and anticipates that better and more frequent communication between the Agency, tribal leaders and their environmental staffs will provide firmer direction for future activities.

One critical factor for long-range planning will be the passage of amendments to codify EPA's Indian Policy in various environmental authorities. Another planning function will result from

Answer Cont.:
the national survey on Indian lands of current and potential environmental problems. Together with the input from tribal leaders to the regional offices, and the participation of tribal representatives as the Agency develops the regulations to implement the statutory amendments, this information should provide a sound base for future program direction.

Question 11: In terms of surveys identifying reservation needs in the areas of Water Quality, Air Quality, Solid Waste Management and identification of Hazardous Waste sites, how does EPA plan to compile this data and what time lines or target dates will be set?

Answer: An initial hazardous waste survey of 22 reservations has been completed by the Council of Energy Resource Tribes at the direction of EPA's Office of Solid Waste and Emergency Response. This information, as well as other information that can be gathered from government agencies (including tribal agencies) and other relevant sources, will be compiled for approximately 75 reservations across the country. This survey of environmental problems will be performed at the direction of the Office of Federal Activities by Americans for Indian Opportunity Inc., and is expected to be completed by July 1986.

Question 12: What positive steps is EPA taking to promote tribal "self-sufficiency" in terms of training and development of tribal expertise in EPA programs or Indian lands?

Answer: EPA has funded four pilot projects, the results of which should be applicable to other tribes with similar problems (e.g., nonpoint source pollution, transportation of hazardous waste across reservation lands, visibility problems, etc.). EPA has also made available $250,000 to the Council of Energy Resource Tribes (CERT) to supplement the technical assistance already provided by regional offices to member and non-member tribes. The Agency anticipates that an equal amount will be made available to CERT through an allocation of FY 1986 funds. Final decisions on the funding of projects has not been made by the Agency at this time.

QUESTIONS FROM SENATOR CHAFEE

Question 1: In testimony before the Environmental Pollution Committee last May, Mr. Robert Dawson, who as you know administers the 404 program at the Army Department, said:

> "One significant point to recall is that the Congress did not design Section 404 to be a wetland protection mechanism and it does not function well in that capacity."

Mr. Dawson stood by that statement again at a hearing we had just last week.

Do you agree with that statement?

Answer: The legislative history of the 1972 Federal Water Pollution Control Act did not specifically identify section 404 as a wetlands protection program. However, the extensive amendments added in 1977 clearly indicate congressional intent to expand the purpose of the section to provide wetlands protection.

I believe the current law is now designed to protect our Nation's wetlands. It regulates many kinds of activities harmful to wetlands and has achieved some measure of success in doing so. However, section 404 does not regulate all activities which harm wetlands, and unfortunately, as a result, can not be considered a comprehensive wetlands protection mechanism.

Question 2: How do you view the 404 program? How have you viewed EPA's role over the past several years in administering the program?

Answer: I view the 404 program as being most important in protecting the physical and biological integrity of wetlands and shallow waters. The American people must recognize today, more than ever, the importance of protecting these ecosystems if this Nation is to maintain the diversity and productivity of our fishery and wildlife resources. We must also recognize the importance of wetlands to water quality, flood control, and to the economic stability of water-based commerce, including the recreation industry.

In my view, EPA has worked to improve its internal capabilities under the 404 program, and to initiate the development of a policy framework to make its section 404 decisions more effective and understandable. This effort has included an enforcement initiative to achieve compliance with the requirements of section 404 and a program to improve EPA's scientific capabilities in wetlands. A wetlands research program is scheduled to start in FY 1986. The Agency has also invested considerable effort toward achieving the objectives of regulatory reform in a manner that is consistent with the need to protect important aquatic

Answer Cont.:
resources. While these programmatic activities are underway, EPA is using its authorities under the Clean Water Act, such as section 404(c), to ensure that individual discharges with unacceptable adverse impacts on the aquatic ecosystem do not occur.

Question 3: What kind of changes do you feel the program needs?

Answer: EPA is giving section 404 increasing attention. Substantial activity is underway to further develop and implement the Agency's strategy to protect wetlands. I would recognize that there are a number of important 404 program issues between the Department of Army and EPA that need to be resolved, and that their resolution is important to both agencies and to the program. I view this as a high priority for EPA's Assistant Administrator for External Affairs.

Question 4: Would you freely use the so-called 404(c) veto authority to deny permits on environmental grounds?

Answer: Regarding the use of section 404(c), Congress has entrusted EPA with the responsibility to prevent discharges of dredged and fill material with unacceptable adverse impacts on fish and shellfish (including nursery and spawning areas), wildlife, recreation and water supply. I would use this authority as needed to fulfill this responsiblity.

Question 5: In a memorandum dated September 20, 1985, Mr. Dawson of the Army Department concurred with the position taken in an EPA memorandum regarding jurisdiction of Section 404 over isolated waters. That memorandum dated September 12, stated that waters which are or could be used by migratory birds or endangered species would be covered under the program.

Since EPA has the authority to determine wetlands pursuant to the Civiletti opinion and given Mr. Dawson's concurrence with EPA's position -- would you establish a national uniform policy with respect to jurisdiction over wetlands?

Answer: Jurisdiction of the Clean Water Act should be determined in a uniform manner throughout the United States in order to ensure a consistent level of protection for all of our Nation's waters and wetlands and to provide that the regulated community is treated equitably.

I believe EPA's policy, concurred in by both the Department of the Army and Interior, regarding section 404 jurisdiction over

Answer Cont.:
isolated wetlands, is a national policy. It is based on the Agency's existing regulatory definition of "waters of the United States" and judicial determinations. This regulatory definition is one that has been applied by the Agency since 1980.

Given the interest of the Committee in this issue, I believe that EPA should join Army in reviewing all guidance that has been provided to the regions on jurisdiction over isolated waters to determine whether there is a need to either provide supplemental guidance or to consolidate existing guidance. While I believe this is an advisable course of action, I also think EPA and the Department of Army must reflect this agreement in a new Memorandum of Understanding on Jurisdiction.

Question 6: In June 1984, former EPA Administrator Ruckelshaus wrote the Corps to terminate its MOA. EPA wants the following modifications:

1. Regional Administrators should be allowed to delegate signature authority for letters commenting on permits.
2. Elimination of field level review which raises issues to the Assistant Secretary/Administrator level. (Please note item 2 should read "insure" field level review, not "eliminate" it.)
3. Better coordination between the MOA and the 404(c) veto action.
4. Require the Corps to review a permit when requested by EPA.
5. Allow permits to be elevated on environmental grounds.

Now its my understanding that some kind of agreement has been reached with the Army Department on the first three issues, but the last two, which are the most important two, have not been resolved.

In your negotiation with the Army will you "stick to your guns" on these two items?

Answer: I support the position taken by Mr. Ruckelshaus in his letter of June 1984, and since reaffirmed by Mr. Thomas, that revisions to the 1982 Memorandum of Agreement are necessary.

The section 404(q) MOA is the most important of the interagency agreements between Army and EPA because both agencies have the

Answer Cont.:
authority to prevent or modify proposed discharges, and these authorities largely determine the level of protection the program provides for wetlands and other waters. In addition, the regulated sector deserves a well-coordinated federal approach to the exercise of these authorities. No agreement under section 404(q) is acceptable to EPA unless it provides a recognition of the Agency's statutory responsibility to prevent environmentally unacceptable discharges and a real commitment to use the permit process to resolve disagreements that develop between the Army and EPA over proposed discharges. I can assure you that I would "stick to my guns" to achieve an MOA that incorporates those principles.

Question 7: What is your understanding of the agreements reached with Army on the first three issues?

Answer: EPA has reached tentative agreement with Army on the issues numbered 1 and 3 in question [6]. The compromise for number 1 would allow the EPA Regional Administrator to delegate signature authority, for letters commenting on permits and requesting extensions of commenting intervals, to the level of EPA Division Director in the Regional organization. The compromise for number 3, would allow for a ten working day interval at the conclusion of the 404(q) elevation process before a permit is issued. This period of time enables EPA to determine whether or not to proceed with the use of its section 404(c) authority.

Most critical to the development of a new MOA is that part of the agreement yet to be reached, which must reflect acceptance by the Army of EPA's statutory responsibility to protect our Nation's wetlands and to prevent unacceptable environmental damage under section 404. The "means" by which this "end" is achieved should be consistent, timely, and process dependable, for the benefit of the permit applicants, permit reviewers, and permit approvers.

Question 8: As you probably know the Army and EPA have been quibbling over the definition of fill material -- this has been going on for at least a couple of years. The Army says if the material is "waste" it should be regulated under the 402 NPDES permit program, but if its primary purpose is to "fill" then it should be regulated under 404.

o What is your view on this?

This whole thing can get quite sticky when you look at the implications under RCRA. If 402 NPDES permits are granted for the disposal of waste material in wetlands then that discharge

Question 8 Cont.:
would not have to meet the more stringent RCRA standards. Dumpers, by calling their fill "waste" could possibly circumvent RCRA by getting a 402 permit.

- o How do you feel about that?
- o In your negotiations with Army, will you push hard for the better definition which EPA promulgated for those States which may assume the program?

Answer: Under the terms of the the settlement agreement in National Wildlife Federation v. Marsh (signed on February 9, 1984), EPA and the Corps of Engineers were required to develop a mutually agreed to definition of "fill material". While no resolution of the definition has, as yet, been reached both agencies did agree to seek additional information from their respective regional offices as well as to consider other legal and environmental concerns.

In my view the difference between EPA's and the Army's regulatory definitions has gone on for too long and that the commitment by management of both agencies to a December 31, 1985, target date for resolving the issue is an important step forward. I believe EPA and the Corps must agree on the most environmentally sensible definition achievable by that target date.

As a point of clarification, EPA's definition of fill material, although promulgated in 1980 with the 404 State Program Regulations, also applies to the federal 404 program. The definition of fill material to be used by state 404 programs (40 CFR 233.3), unlike the Army definition, is written so that any discharge of solid material would require a section 404 permit. The Army definition, in contrast, is based upon the intent of the discharger (the primary purpose test). Thus, only solid material discharged at a particular site with the intent of filling waters of the United States would be covered under a section 404 permit using the Army definition.

The problem associated with permitting of waste materials under section 402 of the CWA is a a matter of concern to EPA. I would expect that this must continue to be one of the issues given careful consideration as negotiations toward a joint definition of fill take place.

This problem is further exacerbated by the environmental concerns associated with RCRA. Under that statute the definition of solid waste excludes any discharger of waste authorized by a NPDES permit from the necessity of obtaining a RCRA permit. Should the Army's definition prevail, discharges of hazardous wastes authorized by section 402 of the Clean Water Act would be exempt from the more stringent RCRA disposal requirements. Moreover, RCRA permits would still be necessary for the storage or transport of the same material resulting in considerable confusion among the regulated community. Such confusion is unnecessary if the wastes are permitted under section 404 of the CWA since a RCRA permit would still be issued to cover the full range of RCRA-related activities at the site.

QUESTIONS FROM SENATOR MITCHELL

Question 1: Do you feel the Agency has a responsibility to provide the public with basic information on ecology and the natural environment, separate from information about specific environmental issues under review by the Agency?

Answer: EPA has a responsibility to provide the American people with generic information on the environment. It is important for EPA to relate the Agency's mandates and programs to broader environmental issues. Moreover, as a regulatory agency, EPA's program enforcement is best achieved by public support for compliance with its environmental statutes. The public's awareness of our natural environment, and its understanding of the complex, and ever-changing challenges involved in protecting health and the environment, are prerequisites for sustaining involvement among the American people.

It is incumbent on EPA to weave ecological factors and environmental considerations into public information materials on specific Agency programs whenever it can. I believe these two themes are complementary rather than mutually exclusive.

Question 2: What steps might you take to increase EPA efforts to develop public awareness of the natural environment?

Answer: EPA educational activities are taking place for young people through the President's Environmental Youth Award Program, and through the Agency's direct participation in young people's events such as this summer's National Boy Scout Jamboree in Virginia. Our Regions have some creative, youth-focused programs, and I would seek to intensify our youth education program, and expand the visibility of our community awareness program, through a variety of means - from fact sheets, pamphlets and public meetings to other speaking forums.

The Agency is also developing a basic strategy aimed at educating students and teachers on ecology and the natural environment. The EPA Journal, the Agency's periodical, devotes continuing attention, issue by issue, to elements of the natural environment. An issue devoted to the special and fragile nature of wetlands, for example, will be published early in 1986.

Question 3: What are your views on the importance of public involvement in EPA decisions? Do you feel the public is adequately involved in decisions at this time?

Answer: As I said in my September 27, 1985, statement to the Committee, educating people about a problem means involving people in the solution. Administrator Thomas and I agree that the Office of External Affairs has the lead responsibility to

Answer Cont.:
make certain that the public -- and by that I mean individual citizens, as well as their public and private representatives -- is communicated with, and listened to, on all major Agency actions and decisions.

I feel that the Agency's regulatory process provides for adequate public involvement. EPA is encouraging the emergence of more public participation activities in highly specialized program areas, particularly Superfund and RCRA which have very strong community outreach programs in place both at headquarters and in the regions.

Question 4: What are your thoughts on how to expand or improve the Agency's public involvement programs?

Answer: I believe that the stronger EPA makes its intra-agency communications, the better able the Agency will be to present timely opportunities for public involvement through coordinated outreach strategies and the production of information materials. Therefore, one of my first priorities would be to ensure that the five offices which compose the Office of External Affairs are integrating efforts with EPA's regional and headquarters offices to identify, at the earliest opportunity, those programs, policies, regulations, or guidance efforts which affect both governmental agencies and individuals.

As mentioned in my statement, Administrator Thomas and I are committed to an active Agency-wide community involvement program, focused particularly on those EPA activities which have impacts on specific communities, as well as those which affect a "community" of interests.

Question 5: The Agency has a number of interagency agreements and memorandum of understanding with other Federal agencies and departments. Please provide the Committee with a current list of these documents including the date and a brief description of each document.

Answer: The Office of Federal Activities (OFA) is responsible for maintaining a consolidated file for all non-monetary interagency agreements that focus primarily on environmental policy issues. Guidance for review and approval of documents associated with these Memoranda of Understanding (MOU) is still under development by OFA and is expected to be completed by the end of the year. Attached for your review is a list of the MOU's which have been received by the Office of Federal Activities. The title, date signed, effective date, duration (some MOUs have no expiration date), and purpose of each MOU have been provided. EPA's Assistant Administrator for Administration and Resources Management is responsible for all other interagency agreements and memoranda of understanding. There are well over 2000 MOUs tracked by the Office of Administration and Resources Management. If you wish information on these I will be pleased to forward your request to the Assistant Administrator for that office.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S.D.A. Forest Service

Signed: November 23, 1982
Effective date: November 23, 1982
Duration: 5 years unless modified by mutual consent
or terminated by either party

PURPOSE

To establish policies and administrative procedures that provide for a continuing working relationship between the Environmental Protection Agency and USDA-Forest Service in support of common objectives, interests, and statutory requirements and to avoid duplication of effort. This memorandum identifies the general principles of cooperation, coordination, and communication to be utilized between the Forest Service and the Environmental Protection Agency.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Atomic Energy Commission

Dated Signed: November 23, 1973
Effective Date: April 10, 1973
Duration: Continuing

PURPOSE:

The Atomic Energy Commission (AEC) and the Environmental Protection Agency (EPA) have responsibilities under various statutes and Reorganization Plan No. 3 (1970) for public health and safety and for environmental protection. In order to fix an appropriate interface of the respective functions of the two agencies and to avoid unnecessary duplication with regard to AEC-owned, contractor-operated facilities (AEC facilities), EPA and the AEC have executed a memorandum of understanding with regard to AEC facilities.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Atomic Energy Commission (AEC) with Respect to AEC-Licensed Facilities

Signed: August 27, 1973
Effective date: September 6, 1976
Duration: Continuing unless modified by mutual consent or terminated by either party

PURPOSE

To fix an appropriate interface of the respective functions of the two agencies, to further facilitate their useful cooperation, and to avoid unnecessary duplication of regulatory effort, in regard to AEC-Licensed facilities, this MOU was executed between the parties concerning environmental protection and the control of radiation effects.

Policy Interagency Agreement between the U.S. Environmental Protection Agency and the U.S. Department of Commerce, National Technical Information Service, for a Program to provide Public Accessibility to EPA Data Bases

Signed: September 1984
Effective date: Upon date of final signature
Duration: Continuing
EPA #PW13931089-01-0

PURPOSE

To provide a vehicle for the orderly transfer of data bases and information products produced by or for the EPA to the general public. This IAG makes Agency computerized data bases available through a number of mechanisms.

Memorandum of Understanding between the Environmental Protection Agency and the Department of Defense for the Implementation of P.L. 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

Signed: August 12, 1983
Effective date: August 12, 1983
Completion date: December 1, 1985

PURPOSE

DOD and EPA entered into this agreement to clarify each agency's responsibilities and commitments for conducting and financing response actions authorized by CERCLA and specifically delegated by E.O. 12316.

The agreement does not redelegate responsibilities set out in E.O. 12316, it clarifies respective operational roles, the responsibilities and procedures, consistent with the provisions of E.O.s 12316 and 12088. It does not create any substantive or procedural rights in other parties, nor does it effect enforcement rights with regard to any party. It is only intended for Federal administrative purposes of EPA and DOD. Civil works activities of the Dept. of Army Corps of Engineers are not subject to terms of the agreement.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the United States Air Force on Cooperative Research and Development

Signed: April 15, 1983
Effective date: April 15, 1983
Duration: 5 years, unless terminated by either party

PURPOSE

To establish policies and administrative methods that will permit cooperation and coordination between the Environmental Protection Agency (EPA) and the Air Force (AF) in research and development for environmental standards and criteria, pollution abatement, and environmental quality management. The purpose of the cooperation and coordination is to avoid duplication of research and development programs, insure rapid technology transfer between the EPA and AF, and to permit EPA utilization of Air Force-owned facilities and property in testing, evaluating, and demonstrating technology developments. This Memorandum of Understanding defines the general principles of cooperation, coordination, and communication by both EPA and the AF.

Additional agreements will be developed pursuant to this Memorandum of Understanding to define specific undertakings by and between individual agencies or installations of the AF and the program and staff offices of EPA. Such agreements will provide for the use of facilities, personnel, personnel reimbursements, cooperative projects, transfer of funds, preparation of environmental documentation and permit applications, etc., and be subject to the laws and regualtions pertaining to the respective agencies.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of the Army on Cooperative Research and Development .

Signed: May 26, 1981
Effective date: Upon signing
Duration: Five years unless modified

PURPOSE

To establish policies and administrative methods that will permit cooperation and coordination between the Environmental Protection Agency (EPA) and the Department of the Army (DA) in research and development for pollution abatement and environmental quality management, to avoid duplication in research and development programs, and permit EPA utilization of Army owned facilities and property in testing, evaluation and demonstration of technology developments. This Memorandum of Understanding defines the general principles of cooperation, coordination and communication to be utilized between the EPA and the DA.

Memorandum of Understanding between the Environmental Protection Agency and the Department of the Army which provides for the demonstration of a prototype Urban Integrated Pest Management System on Selected Army Installations

Signed: March 31, 1981
Effective date: January 1, 1981
Length of agreement: December 31, 1984 with modification by mutual consent

PURPOSE

The agreement provides for the development and evaluation by EPA, Office of Pesticide and Toxic Substances, of prototype Integrated Pest Management (IPM) strategies applicable to urban/suburban communities, utilizing selected Dept. of the Army (DA) installations as study sites. The program functions to address all pests in the cantonmental area and in other areas of concentrated human activity.

The objective of the program: 1) to demonstrate the practicality and long term benefits of IPM; 2) to develop or revise IPM technical manuals and information packages transferable to additional Army installations and to the urban/suburban environment; and 3) to identify the environmental impacts of implementing an urban IPM program on selected Army installations.

Interagency Agreement between the Environmental Protection Agency and the U.S. Army Corps of Engineers in executing P.L. 95-510 (CERCLA)

Signed: December 1984
Effective date: December 1984
Completion date: Continuing
EPA File # PW96931209-010

PURPOSE

EPA has overall statutory responsibility for implementing the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as Superfund. The agreement defines the assistance the U.S. Army Corps of Engineers (Corps) will provide to EPA in implementing the Superfund program, for EPA-lead or State-fund lead or for enforcement-lead projects.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers Concerning the Chesapeake Bay Program

Signed: November 21, 1984
Effective date: Upon signing
Duration: Time of Program

PURPOSE

To establish the participation of the Corps of Engineers in the management of the Chesapeake Bay Program, and to reflect the mutual desire that the capabilities of the COE in their areas of expertise contribute to a coordinated effort toward protection and restoration of the Chesapeake Bay environment.

Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army

Signed: July 7, 1982
Effective date: July 7, 1982
Length of agreement: 5 years, with provision for modifying or revoking by mutual agreement

PURPOSE

Under the authority of Section 404(q) of the Clean Water Act (33 USC 1344 (q)) this agreement was made to establish policies and procedures to implement Section 404(q) of the Act to "minimize, to the maximum extent practicable, duplication, needless paperwork and delays in the issuance of permits."

The agreement provides for coordination between EPA officials and the Army Corps of Engineers District Engineer (DE). Provisions have been made for EPA comment and, disagreement when believed needed, but under a closer relationship and dialogue between the parties in informal stages before formal actions.

Memorandum of Understanding between EPA and Department of the Army, Office of the Chjef of the Engineers, Geographical Jurisdiction of the Section 404 Program

Signed: April 23, 1980
Effective date: April 23, 1980
Length of Agreement: Extension beyond 18 months by mutual consent.

PURPOSE

To establish mutual policies to recognize the responsibilities of each agency in regard to administering the Federal permit program. As a result of the Attorney General's Opinion of September 5, 1979, wherein the Attorney General opinioned that the Administrator of EPA has ultimate authority to determine the jurisdictional scope of Section 404 waters of the U.S.

Internal Policy Statement by EPA Assistant Administrator for Enforcement and Concurred in by the Department of Justice and Department of Army, Corps of Engineers, establishing policy for EPA Enforcement for Noncompliance with Section 404 of the Federal Water Pollution Control Act

Signed: June 1, 1976
Effective date: June 1, 1976
Length of Agreement: Continuing

PURPOSE

To set forth the appropriate administrative and civil and criminal enforcement procedures to be followed by EPA personnel for violations of Section 301 of the FWPCA arising out of any form of noncompliance with Section 404.

Memorandum of Understanding between the U.S. Department of Energy and the U.S. Environmental Protection Agency for Hazardous Waste and Radioactive Mixed Waste Management

Signed: February 22, 1984
Effective Date: Date Signed
Expected Completion Date: Until mutual consent to cancel

PURPOSE

This Memorandum of Understanding (MOU) delineates the areas of responsibility of the Department of Energy (DOE) and the Environmental Protection Agency (EPA) concerning ongoing hazardous waste and radioactive mixed waste management at facilities operated by DOE under the authority of the Atomic Engergy Act (AEA) of 1954 42 U.S.C. §2011 et seq. This MOU sets forth procedures to assure that hazardous waste and radioactive mixed waste management are conducted in a manner consistent with the national security responsibilities assigned by existing law.

This MOU establishes a hazardous waste and radioactive mixed waste management program that is comparable to the design and performance criteria, other technical requirements, and recordkeeping and reporting requirements, of the regulations adopted by EPA to implement the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. This MOU also addresses coordination with States and community relations concerning hazardous waste and radioactive mixed waste mangement at AEA facilities.

Memorandum of Understanding among the U.S. Environmental Protection Agency and the U.S. Department of Energy and the State of Tennessee concerning compliance with Pollution Control Standards at the DOE Y-12 Plant in Tennessee

Signed: May 26, 1983
Effective date: date signed
Duration: January 31, 1984

PURPOSE

To clarify the compliance objectives agreed upon during an April 8, 1983 meeting between representatives of the parties. The MOU provides the objectives agreed upon as constituting preliminary measures toward DOE achieving full compliance with all Federal and State pollution control laws at its Y-12 facility.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Energy concerning the Clean Air Act, as amended in 1977

Dated Signed: October 22, 1982
Effective Date: Immediately
Duration: Until terminated by either party with 120 days written notice.

PURPOSE:

To minimize duplication of effort and to conserve resources in the regulation of radionuclide emissions to air from sources or facilities owned or operated by the Department of Energy (DOE). The Environmental Protection Agency (EPA) and DOE agreed to establish standards for airborne radionuclide emissions under the Clean Air Act, as amended, and to define the authority for implementation and enforcement of the standards.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Atomic Energy Commission Concerning the Control of Radiation Effects

Signed: August 27, 1973
Effective date: September 6, 1973
Duration: Continuing

PURPOSE

To establish and define the responsibilities of the two agencies in the establishment, implementation, and enforcement of standards for the protection of the general environment from radioactive material.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Federal Emergency Management Agency concerning the use of High Frequency Radio Communications for Radiological Emergency Response

Signed: April 3, 1981
Effective date: April 3, 1981
Duration: Continuing until terminated by either party

PURPOSE

To identify and fix by agreement the responsibilities, functions, and working relationships of the Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA) in the development of interagency emergency high frequency radio communications for radiological response.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Health and Human Services, Public Health Service, Office of the Assistant Secretary for Health, National Center for Health Statistics, for Policy Interagency Agreement regarding the transfer of Data from the First and Second National Health and Nutrition Examination Surveys

Signed: July 6, 1984
Effective date: July 6, 1984
Duration: July 1988

PURPOSE

To join with the National Center for Health Statistics (NCHS) in giving appropriate emphasis to methods to improve health statistical and epidemiological data with this joint effort directed toward the development of improved data collection methods regarding pollutants, by providing to EPA data tapes from the National Health and Nutrition Examination Surveys (NHANES I and II). EPA will use the data only for the purpose of research and statistical analysis under the terms of this agreement and the EPA Cooperative Assistance Agreement CR-811041 with the University of Pittsburgh.

Interagency Agreement between the U.S. Environmental Protection Agency, Office of Toxic Substances and the U.S. Department of Health, Education and Welfare, Food and Drug Administration

Task Order No.
FDA 224-78-8006 of IAG FDA 224-77-8017
EPA-79-D-X0510

Signed: February 13, 1979
Effective Date: February 13, 1979
Completion Date: September 30, 1979 - unless modified

PURPOSE

To provide for the auditing by the Food and Drug Administration (FDA) of selected health-related toxicity test reports and laboratory records to enable EPA to determine whether the testing was properly performed and whether the test reports fully and accurately reflect the test procedures.

The Agreement states the scope of work under authority from the Federal Food, Drug, and Cosmetic Act, the Federal Insecticide, Fungicide and Rodenticide Act, and the Toxic Substances Control Act. FDA investigators will perform twenty (20) man years devoted to operational investigative audits.

The purpose of the audits is to determine if the laboratory reports on covered toxic substances are factual, based on raw data, and will enable EPA to meet its TSCA mandate that no chemical will present an unreasonable risk of injury to health or environment.

Audit reports will disclose if testing was deficient or a test report was inadequate to the point where EPA may propose regulatory action.

Responsibilities of the parties and the EPA delegations of authority are stated.

Amendment to the Memorandum of Agreement Between the U.S. Environmental Protection Agency and the Department of Health, Education, and Welfare on Matters of Mutual Responsibility Under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act

Signed: August 24, 1973
Effective date: September 6, 1973
Completion date: Continuing

PURPOSE

To amend the September 10, 1971 Agreement to include the FIFRA mendment replacing the term "economic poison" with the term "pesticide", and to add eight new paragraphs to Item 3 of the Agreement which further details each agency's responsibilities on the regulation of drugs and pesticides.

Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Department of Health, Education, and Welfare: Radiation Protection In Healing Arts; Guidance to Federal Agencies

Signed: January 18, 1977
Effective date: January 18, 1977
Completion date: Continuing unless modified or
terminated by mutual consent

PURPOSE

To reduce unnecessary patient exposure to radiation in the healing arts by developing and promulgating radiation guidance to Federal agencies through clearly defined areas of responsibilities of each agency and the implementation of the guidance.

Agreement Between the U.S. Environmental Protection Agency and the Department of Health, Education, and Welfare Regarding Matters of Mutual Responsibility Under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act

Signed: September 4, 1971
Effective date: November 10, 1971
Duration: Continuing unless modified or terminated
by mutual consent

PURPOSE

To provide for the coordination of activities pertaining to economic poisons and to inform all concerned as to which agency will process the pesticide petitions for each type of use, and to define the responsibilities of each agency in implementing the registration and approval, and regulations for products.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Department of Interior Concerning the Coordination of NPDES Permit Issuance with the Outer Continental Shelf Oil and Gas Lease Program

Signed: May 31, 1984
Effective date: Upon signature by EPA Administrator
Duration: 5-year reevaluation with each OCS oil and
gas program

PURPOSE

To improve cooperation and coordination between the Environmental Protection Agency (EPA) and the Department of the Interior (DOI) in oil and gas lease activities on the Outer Continental Shelf (OCS), to determine the terms and conditions of National Pollutant Discharge System (NPDES) permits and ensure NPDES permit compliance. This MOU establishes that each Agency will coordinate studies and related regulatory responsibilities and cooperate to ensure that EPA can issue NPDES permits at the time of the Final Notice of Offering by DOI. To the extent possible, this MOU will also combine related National Environmental Policy Act requirements.

Interagency Agreement between the U.S. Environmental Protection Agency and the U.S. Department of Interior, National Park Service Concerning the Integrated Pest Management (IPM) System

Interagency Agreement No. 0485-3-8004
EPA Interagency Agreement No. RW14930818-01-0

Signed: September 21, 1983
Effective date: September 21, 1983
Duration: To September 30, 1984 unless modified, reviewed, or terminated

PURPOSE

To establish the procedures and funding for the Environmental Protection Agency to assist the National Park Service in developing a technical information data base for intergrated pest management. This data base will be compatible with NPS microprocessing equipment to allow necessary periodic revisions and rapid and easy access by field units. The authority to enter into this interagency agreement is given under the following acts:

Organic Act 16 U.S.C. 1a-2(g); 17J-2
Historic Sites Act 16 U.S.C. 464
Fish and Wildlife Coordination Act 16 U.S.C. 661
Federal Land Policy and Management Act 43 U.S.C 1737(b).

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Geological Survey Creating a Standing EPA/USGS Interagency Coordinating Committee

Signed: August 5, 1981
Effective date: August 5, 1981
Duration: Continuing unless terminated by either party

PURPOSE

To establish a standing EPA/USGA Committee to coordinate areas of interface, facilitate information exchange, and resolve conflicts between the two agencies. The function of the Committee will be to:

Provide a coordinating mechanism for programs and multi-year plans of the two agencies. Programs of mutual interest include, but are not limited to: surface and ground water hydrology with emphasis on water quality; geology; geochemistry; waste disposal; mapping; aerial photography; remote sensing; emergency response plans; outer continental shelf and onshore mineral resource activities, including regulation of industry operations.

Provide for technology transfer, and exchange of data, information, and research findings of mutual interest.

Exchange appropriate budgeting and program planning information.

Act as a clearinghouse for EPA/USGS contracts, and provide information on existing and future Memorandums of Understanding (MOUs) and Interagency Agreements (IAGs).

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Office of Surface Mining Regarding the Coordination of Diverse Responsibilities

Signed: November 18, 1980
Effective date: November 18, 1980
Duration: Continuing with mutual amendments or
either party termination

PURPOSE

To minimize duplicative and overlapping efforts of the two agencies. This MOU contains broad guidelines for cooperation between OSM and EPA with respect to: research; information and data sharing; inspector training; permit writing assistance; nonregulatory guidelines; major special studies; grant fund coordination; litigation; audit concerns; legislative initiatives; and reporting requirements.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Department of Interior Regarding Implementation of Certain Responsibilities of the Agencies Under the Surface Mining Controls and Reclamation Act of 1977

Signed: February 12, 1980
Effective date: February 12, 1980
Duration: Five years

PURPOSE

To provide procedures for the coordination of and EPA concurrence on OSM regulations and State programs as they relate to air and water quality standards.

It further provides the framework for the coordination of issues regarding future regulations of both agencies and State programs.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of the Interior for Coordinating Programs with Common Interest

Signed: November 13, 1978
Effective date: November 13, 1978
Duration: Review after five years

PURPOSE

To coordinate the programs of the U.S. Fish and Wildlife Service, the National Park Service, and the Heritage Conservation and Recreation Service (HCRS) with the water quality management process administered by the Environmental Protection Agency under sections 201, 208, and 303 of the Clean Water Act: facilitate the participation of these Interior Bureaus in the State and local establishment of water quality goals and the development and implementation of State and local programs to achieve those goals: and assure adequate consideration, under the Clean Water Act, of program needs of these Interior Bureaus.

Interagency Agreement between the U.S. Environmental Protection Agency and the U.S. Department of Justice, Land and Natural Resources Division for Handling of Certain Classes of Judicial Enforcement Cases

Signed: September 8, 1983
Effective date: December 1, 1983
Duration: One year

PURPOSE

To establish a procedure whereby certain classes of judicial enforcement cases will be referred directly to DOJ without prior concurrence by the Assistant Administrator. Such cases under the Safe Drinking Water Act and the Clean Water Act are defined with the procedures and responsibilities for handling these cases.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Justice for Handling Civil Litigation

Signed: June 15, 1977
Effective date: June 15, 1977
Duration: Continuing

PURPOSE

To define the responsibility of the parties in Civil litigation involving the EPA and to promote the efficient and effective handling of such litigation.

Interagency Agreement between the U.S. Environmental Protection Agency, Office of Pesticide Programs, and the U.S. Department of Labor, Employment Standards Administration

Signed: March 17, 1980
Effective date: April 1, 1980
Duration: Until September 30, 1985

PURPOSE

The purpose of this Agreement is two-fold. First, it establishes policies and procedures that will provide for a continuing working relationship between the Environmental Protection Agency (EPA), Office of Pesticide Programs and the Department of Labor, Employment Standards Administration (ESA). Second, by the utilization of existing services of the ESA and EPA, it will provide for the development of a pesticide protection program for farmworkers.

This Agreement provides the framework for mutual cooperation in the development of standards for field re-entry; in the design and conduct of studies to obtain data on the effects of pesticides on youth employed in agriculture; in the development and distribution of informational materials to farmworker populations on pesticides and for the development of cooperative enforcement programs.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration

Signed: October 15, 1984
Effective date: Date of signature by both parties
Duration: 5 years
EPA #PW13931105-01-0

PURPOSE

It is in the national interest that related program responsibilities of the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA) be closely coordinated, mutually supportive, and clearly understood by both agencies. Accordingly, there is hereby established an EPA/NOAA Interagency Committee for Program Coordination to coordinate program responsibilities for mutual benefit and support, to facilitate information exchange and to resolve conflicts between the agencies.

Memorandum of Understanding between the Nuclear Regulatory Commission and the U.S. Environmental Protection Agency

Signed: October 24, 1980
Effective Date: October 24, 1980 (Immediately)
Duration: Continuing unless modified or terminated

PURPOSE

To reach accordance with Section 122(c)(2) of the Clean Air Act, as amended, to minimize duplication of effort and conserve resources in the regulation of radionuclide emissions to air from sources or facilities licensed by NRC. To reach agreement on the establishment of standards and the implementation and enforcement of such standards.

Second Memorandum of Understanding between the U.S. Environmental Protection Agency and the Nuclear Regulatory Commission Regarding Implementation of Certain NRC and EPA Responsibilities

Signed: December 17, 1975
Effective date: January 30, 1976
Duration: Continuing

PURPOSE

To clarify the respective roles of EPA and NRC in the decision-making process concerning nuclear power plants and other facilities requiring an NRC license or permits.

Memorandum of Understanding between the U.S. Environmental Protection Agency the U.S. Department of Transportation-Federal Highway Administration, and the Florida Department of Transportation

Signed: June 26, 1980
Effective date: June 26, 1980
Duration: Until actions in MOU pursued to mutually agreeable and understood conclusion

PURPOSE

To develop an understanding between the Environmental Protection Agency, Florida Department of Transportation and Federal Highway Administration concerning the Interstate 75 facility from the Palmetto Expressway in Miami to U.S. 27 at Andytown in Broward County and its involvement with the Biscayne Aquifer under the Safe Drinking Water Act (P.L. 93-523). A FEIS for the interstate facility was filed in accordance with National Environmental Policy Act (NEPA) and the applicable policies developed to carry out the Act.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Transportation Concerning the Enforcement of Standards Applicable to the Shipment of Hazardous Waste

Signed: June 24, 1980
Effective date: June 24, 1980
Duration: Continuing

PURPOSE

To delineate the areas of responsibility of the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) for the enforcement of standards applicable to the shipment and transportation of hazardous waste. This MOU will also set forth those areas of joint responsibility and cooperation between the two Agencies.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Transportation for Procedures for Conformance of Transportation Plans, Programs and Projects with Clean Air Act State Implementation Plans

Signed: June 12, 1980
Effective date: June 12, 1980
Duration: Continuing

PURPOSE

To establish the responsibilities of EPA and DOT concerning procedures for conformance of transportation plans, programs and projects with Clean Air Act State Implementation Plans.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the Department of Transportation, Office of the Secretary Concerning Federal Assistance Limitations Required by Section 176(a) of the Clean Air Act; Final Policy and Procedures

Signed: June 11, 1979
Effective date: April 10, 1980
Duration: Continuing

PURPOSE

To set forth policy and procedures for meeting the Federal assistance limitations in section 176(a) of the Clean Air Act. The procedures are to be applied to certain EPA and DOT activities in nonattainment areas or portions thereof, as designated under section 107(d) of the Clean Air Act, where transportation control measures are needed to attain the primary national ambient air quality standards.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Transportation Regarding the Integration of Transportation

Signed: June 14, 1978
Effective date: June 14, 1978
Duration: Continuing

PURPOSE

This Memorandum of Understanding, developed pursuant to the President's request, is designed (1) to establish certain principles which DOT and EPA agree to follow in the preparation of more detailed regulations and administrative procedures required to achieve the objective of integrating the air quality and transportation planning processes; (2) to identify specific areas of agreement with regard to the joint administration of the air quality aspects of the planning process.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Transportation Regarding the Development of Transportation-Air Quality Planning Guidelines

Signed: June 1978
Effective date: On date issued
Duration: continuing

PURPOSE

To issue joint guidelines on transportation-air quality in response to Section 108(e) of the Clean Air Act, as amended August 1977. Section 108(e) requires EPA to consult with DOT in preparing guidelines for the development of transportation system components of State Implementation Plans (SIP) for areas that are designated air quality non-attainment areas with respect to photochemical oxidants and/or carbon monoxide.

Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. Department of Transportation

Signed: July 12, 1976
Effective date: July 12, 1976
Duration: Continuing

PURPOSE

The general purpose of this memorandum is to improve coordination among transportation planning and water quality management planning efforts especially in urbanized areas.

Specifically, the joint memorandum was prepared to:

(1) provide a framework in which related program activities of the signatory agencies may be made more compatible;

(2) promote the concept that planning undertaken for purposes of transportation and water quality management should recognize mutual dependency on common development infrastructure;

(3) urge State and local governments to assign to a single organization unit, whenever possible, responsibility to carryout the urbanized area planning activities relevant to this memorandum

(4) set forth general and mutually acceptable principles with the understanding that more detailed guidelines or criteria to implement them should be prepared in the future.

Memorandum of Understanding between EPA and the Department of Treasury for Sponsorship and Operation of the Consolidated Federal Law Enforcement Training Center - February 1, 1984 Amendment To add EPA as Member

Signed: December 11, 1984
Effective date: December 11, 1984
Duration: Continuing
EPA File #PW20931210-01-0

PURPOSE

To provide the recognized and demonstrated need within the Federal Government for a law enforcement training center to provide law enforcement organizations with adequate, modern facilities for in-service training, and to conduct common in-service training for various law enforcement personnel in an effective and economical manner. Parties to the agreements: Department of Interior, Department of Justice, Office of Management and Budget, Smithsonian Institute, Department of Treasury, and Office of Personnel Management. The Department of Treasury was assigned operational responsibility and to serve as lead agency.

Other agencies may/have become members by agreeing to provisions and acceptance by the Board of Directors.

Memorandum of Understanding between the U.S. Environmental Protection Agency, Office of Toxic Substances-Compliance Monitoring Staff and Pesticides and Toxic Substances, Office of Pesticide Programs for a Management Framework Conduct of Laboratory Inspections and Data Audits

Signed: April 30, 1984
Effective date: April 30, 1984
Duration: Continuing

PURPOSE

A Laboratory Data Integrity Program (LDIP) has been established within the Compliance Monitoring Staff (CMS) of the Office of Pesticides and Toxic Substances (OPTS). LDIP is specifically charged with developing and conducting laboratory inspection and data audit programs to assure the reliability and validity of data reported to EPA under both the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA) Sections 4 and 5. This Agreement establishes the matrix management framework under which CMS, the Office of Pesticide Programs (OPP) and the Office of Toxic Substances (OTS) will work cooperatively to assure an effective laboratory inspection and data audit program.

Memorandum of Understanding Among the U.S. Department of Agriculture, Agricultural Marketing Service-Food/Safety and Inspection; the U.S. Department of Health and Human Services, Food and Drug Administration; and the U.S. Environmental Protection Agency

Signed: October 1984
Effective date: Upon date of final signature
Duration: Continuing unless modified or terminated by mutual consent

PURPOSE

To set forth the working relationships among the U.S. Department of Agriculture (USDA), specifically the Food Safety and Inspection Service (FSIS) and the Agricultural Marketing Service (AMS), the Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA) to promote more effective, efficient, and coordinated Federal regulatory activities concerning residues of drugs, pesticides, and environmental contaminants that may adulterate food.

This Memorandum of Understanding (MOU) supersedes an April 1975 MOU between the Animal Plant Health Inspection Service (APHIS) and FDA, an August 1977 MOU between the Food Safety and Quality Service (FSQS) and EPA, and a May 1975 MOU between FDA and EPA. By a reorganization dated January 9, 1978, the Meat and Poultry Inspection program was transferred from APHIS to FSQS; and by a reorganization dated September 30, 1981, it was transferred to FSIS.

This MOU does not modify any other existing agreements between USDA, FDA, and/or EPA. It supplements a MOU, revised in 1983, defining the authorities and responsibilities of FDA and AMS regarding eggs and egg products.

Senator **Stafford**. Next, we will hear from Mr. Lawrence Jensen who has been nominated to be Assistant Administrator for Water at the Environmental Protection Agency. Apparently, Senator Hatch may have a tree down in his driveway also, but I understand he is on his way. If you would prefer, we will wait just a moment for him to get here.

While we are waiting, Mr. Jensen, I see you have a very attractive family there, and I think I see you are raising girls which is what the chairman of this committee did, four of them, in fact. If you would care to introduce them, we would be very happy to meet them.

Mr. **Jensen**. I would like to do that, Senator. I appreciate that. This is my wife, Terri, and we have three daughters. The oldest is Jenny, then Sarah Beth, and Emily is our 2-year-old.

Senator **Stafford**. We are glad they are here, and we welcome them to the committee.

Mr. Jensen, I don't think Orrin Hatch will be offended if we hear your statement while we are waiting for him.

Mr. **Jensen**. That is fine if you would like to proceed that way.

Senator **Stafford**. I would, yes. Before you begin, we have statements from Senator Chafee and Senator Bentsen which I would like to have appear in the record at this point.

[The statements referred to follow:]

STATEMENT OF SENATOR JOHN H. CHAFEE

ON EPA NOMINEES HEARING

September 27, 1985

This morning we are going to hear from the Environmental Protection Agency nominees, Mr. Larry Jensen for the Office of Water and Ms. Joy Manson for the Office of External Affairs.

I consider these posts two of the most important in the Environmental Protection Aency. Mr. Jensen, if confirmed will be responsible for our national water pollution control programs. As you know the clean Water Act has passed the House and Senate and I predict we will get a bill passed by the President in the near future. Both pieces of legislation contain provisions which establish new clean up programs and strengthen existing provisions of the law to reaffirm the national commitment to clean water.

Mr. Jensen will be responsible for implementing these changes and we look to him to do so aggressively and rapidly.

Ms. Manson, if confirmed, will be responsible for a number of programs including the 404 dredge and fill program, which is the nation's chief regulaory tool for the protection of wetlands. As Ms. Manson knows many Members of this Committee have had a sharp interest in seeing the 404 program operate with a strong emphasis on protecting the environment -- something which seems to have fallen between the cracks over the past several years.

I would like to close by saying to these nominees that the Agency you are going to work for is the Environmental Protection Agency. It is the only agency in government whose sole mission is to protect the environment. That is your job and your challenge -- to do your best to protect our environment.

OPENING STATEMENT
SENATOR LLOYD BENTSEN
NOMINATION HEARING OF
LAWRENCE JENSEN
ASSISTANT ADMINISTRATOR
FOR WATER, EPA

Thank you Mr. Chairman.

Mr. Jensen, I am especially interested in the EPA Water Programs Office because of the very important issues that fall under your jurisdiction. In that regard, I think it would be helpful to recount just where we are and where we may be going on one of the most important issues--the question of ocean incineration.

During the course of the two hearings held at my request in June and July, several major issues requiring further scrutiny were clearly identified. One is the adequacy of the "needs determination" made by EPA. In view of the alternative methods available and under development, is there a need for ocean incineration? Also, it is evident that we need far more information to fill in the gaps identified by various concerned parties, including the EPA's own Science Advisory Board. We also questioned the adequacy of existing liability provisions in the law and as proposed by the draft regulations promulgated by EPA and, finally, we discussed the adequacy of the site selection process used in selecting the Gulf of Mexico.

I believe opening up these issues to full debate is producing positive results. EPA appears to be making efforts to fill in some of the information gaps, and it has made a commitment not to include the Gulf as a burn site unless it is determined that the Gulf meets the new site selection criteria.

We have secured passage of amendments that increase the liability requirements of ocean incinerators and that provide third parties with the opportunity to sue for damages, either direct or indirect.

Ocean incineration will continue to be a contentious issue, but I believe we have made progress over the past few months. I look forward to working with you on this issue in the future.

The potential benefit is determining a process for destroying lethal chemicals rather than merely storing them. But the potential cost of the accidental release of these chemicals into our oceans demands that we consider this issue responsibily and with great care.

STATEMENT OF LAWRENCE J. JENSEN, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION AGENCY

Mr. JENSEN. Mr. Chairman and members of the committee and members of the committee staff, I am honored to appear before you today as President Reagan's nominee to be the Assistant Administrator for Water at the Environmental Protection Agency. I have a great love for and pride in America, and I would consider it a privilege to serve in its National Government.

I have had the opportunity in recent weeks to learn in some detail about the water programs at EPA and to meet many of the people with whom I will be working if the Senate confirms my nomination. I have gleaned from that experience two strong impressions. First, I am struck with the seriousness assigned to the EPA and the States. Caring for and preserving the quality of American's waters is a matter of first importance. Second, I am humbled by the ability and devotion of the people who have dedicated themselves to that task. It is plain to me that if I am confirmed, I will have the good fortune of associating with choice people in highly significant work vital to the welfare of the country.

I would like to briefly describe for the committee my qualifications to do that work and then make some general observations about how I would intend to proceed.

I am formally trained as a lawyer. I have almost 7 years' experience in counseling and litigating about complex Federal statutory programs. Having read the Clean Water Act and the Safe Drinking Water Act, I feel sure that that experience will prove valuable as I administer their complexities and the provisions of the other environmental statutes which protect the Nation's water resources.

During the past 4 years, I have served as an Associate Solicitor at the Department of the Interior. While there, I had responsibility initially for the legal aspects of the Department's Indian programs and then, later, I had responsibility for the legal aspects of the Department's water and land management programs.

That responsibility gave me significant experience as an administrator, exposed me to and seasoned me in the process of making public policy, and afforded me, I think, a broad perspective on the natural resource and environmental challenges facing America. My work with the Bureau of Reclamation taught me the value of water as a resource. My work with the Outer Continental Shelf leasing program taught me the sensitivity of the marine environment. My work with the timber and grazing and land exchange and mineral leasing programs demonstrated to me the wisdom of environmental regulation. And my work with the States and the Indian tribes taught me the need to develop and nurture strong partnerships with local governments.

More important than my formal qualifications are the basic beliefs and attitudes that I will bring to my responsibilities at EPA. It is always difficult to reveal private feelings in a public forum, but I believe that disclosing them will aid you in considering my nomination.

First, I have a profound reverence for both man and nature as the creations of God. That faith sustains me in the belief that with hard work and good sense we can and must find ways to sensitively manage, use, enjoy, preserve, and live in harmony with our natural environment.

Second, I have great regard for America's heritage of liberty and for the institutions like Congress which preserve it. If I am confirmed, my first and foremost commitment will be to faithfully execute the laws in accordance with the intent of Congress as the representative of the people.

Finally, if confirmed, I will be strengthened in my determination to perform well the duties of the Assistant Administrator for Water by my own personal heritage. My maternal great-great grandparents, Thomas and Sarah Jeremy, brought their family to America from Wales in 1849. While crossing the plains to Utah, the company with which they were traveling was afflicted with cholera as a result of drinking contaminated water. One third of that company of 249 persons died from the cholera in the course of a single night, including my great-great grandparents' three daughters, Mary, Margaret, and Sarah.

That particular type of health hazard, waterborne disease, has been largely eliminated in America thanks to the dedicated efforts of many people, including the members of this committee. But other health hazards associated with water remain, particularly pollution from toxics. Like my great-great grandparents, my wife and I also have three daughters, including one named Sarah. For their sake, and for the sake of many generations to come, I am anxious to do what I can to eliminate those hazards and to help in preserving the quality of America's waters.

In closing, let me set forth some general observations about what I believe needs to be done at the Office of Water. Although I have much yet to learn about EPA's water programs, some things seem plain to me.

First, I will be administering what many refer to at EPA as a mature program, one which has already accomplished much and which has many excellent initiatives in place. My first priority, therefore, must be to ensure that the program does not lose its momentum or its sense of mission and to give personal attention to the implementation of the programs in place so that they can be fully successful.

There is much yet to be done. The next years will be challenging ones as the Office of Water firmly enforces the national municipal policy, implements the underground injection control program and the pretreatment programs, and, perhaps most importantly, as it adjusts the Clean Water and the Safe Drinking Water Programs to the presence of toxics in America's waters.

Second, there are some emerging issues in water quality which are of great significance. Ground-water protection, control of non-point source pollution, and the development of wise management policies for estuarine and near-coastal waters head the list. I see my responsibilities here as twofold.

I must first assure that EPA is doing all it can within the limits of its existing authority to address these issues. While the debate is proceeding as it should about what should be done, we must not fail at EPA to do what can be done. Second, I intend to work closely with you as a committee and with any other interested parties to ensure that any new policies which are formulated with respect to these issues will have the benefit of the experience and considered counsel of EPA.

I will be happy now, Mr. Chairman, to answer any questions. I appreciate the chance to make this statement.

Thank you.

Senator STAFFORD. Thank you, Mr. Jensen.

Just prior to your statement, I placed a statement of Senator John Chafee into the record. Senator Chafee is the chairman of our Environmental Pollution Subcommittee which deals with clean water, so I presume you will be in contact with him quite frequently. Senator Durenberger of our committee has the safe drinking water programs under his subcommittee, so those two Senators and their counterparts on the minority side will be the gentlemen that you will probably see the most of over the next few years.

Are you willing to appear in front of any committee of the Congress that asks you to do so?

Mr. JENSEN. Yes, sir.

Senator STAFFORD. Do you know of any financial interests you own or any business attachments you might still have that would put you in a conflict of interest if you are confirmed in this job?

Mr. JENSEN. No, none at all.

Senator STAFFORD. The Clean Water Act is premised on goals that emphasize continued improvement in water quality, limited only by technological and economic realities. Improved water quality is supposed to be protected from degradation by the so-called nondegradation policy of the act.

In brief, Mr. Jensen, what steps might you take to assure that water quality improvements, once gained, will not lightly be yielded back?

Mr. JENSEN. Senator, it seems clear to me that having expended the effort that we have in particularly the past 10 or 12 years to reach the point where we are in terms of the quality of America's waters, we ought not be pursuing policies that would allow slippage in the improvement that we have made. We ought to be very vigilant in ensuring that the quality, once attained, is maintained.

I understand that there are antidegradation regulations in place at the Agency. I am familiar with those and generally in agreement with them. I think what I would like to say is that if I as the Assistant Administrator were ever to have occasion to consider the one exception, I guess, that is built into that regulation, I would do so, as the regulation does from a perspective that would require me to ask very carefully why that would ever be necessary. I really believe that, having reached the point where we are, we ought to maintain it.

Senator STAFFORD. Thank you very much, Mr. Jensen.

I see one of our very able and distinguished colleagues, Senator Hatch, in the room. Senator Hatch, in the interests of time and in view of the weather and what it has done to all of us, we took the liberty of letting Mr. Jensen make his statement.

STATEMENT OF HON. ORRIN HATCH, U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman. It is always a privilege to be before you, and I am really pleased to be here on behalf of Mr. Jensen.

I might add that I represent Senator Garn as well who is out of town.

The Environment and Public Works Committee is considering a very fine man for Assistant Administrator for Water with the Environmental Protection Agency. Mr. Lawrence J. Jensen is a fine candidate for this position. Currently the Associate Solicitor with the Department of the Interior, Mr. Jensen has had extensive experience with water quality and development programs. His position with that Department also gave him broad experience in issues relating to mineral leasing, land acquisitions, grazing, and timber rights.

Mr. Jensen is a native of Utah, and he did his undergraduate work at Yale University and the University of Utah. He also practiced law in Salt Lake City for 2 years prior to joining Government service.

I would just say that both Senator Garn and I are very supportive of this nomination. We know him to be a very fine man, a dedicated public servant, somebody who will make a real difference in this field, somebody I think, Mr. Chairman, whom you will like as time goes on, and somebody who really, we think, will give great service to our Government.

Therefore, I am very pleased to appear at this time. I apologize to my fellow Utahn for being just a little bit late, but I was on the phone with the White House. In any event, thank you for allowing me to make these comments. I couldn't support a candidate more highly.

Senator STAFFORD. Thank you, Senator Hatch, for appearing here. What you tell us means a lot to this committee, especially its chairman, since you and I work together on another committee of which you are the chairman.

Senator HATCH. Thank you.

Senator STAFFORD. We are delighted you are here, and we know how busy you are. You are welcome to stay if you wish, or we understand if you have other things you need to do.

Senator HATCH. Well, I do need to run, but thank you so much.

Senator STAFFORD. All right.

Mr. Jensen, I have one question on nonpoint sources which are in the Senate's version of the new clean water bill and which we now consider to be the one major area of contamination, especially in estuaries like the Chesapeake Bay and, in fact, some parts of Lake Champlain which my State splits with New York that we have not addressed yet. I know Senator Chafee has a deep interest in these items as well, and I am concerned about the Agency's commitment to doing something about nonpoint sources.

Our attack on this problem really is a rather gentle one to start with, because we had to get the national farming community in agreement with it before it was practical to try to proceed. In any event, we get some signals that the Department is reducing staff that might be available for taking on this issue, and I wonder what you could tell us about the resource levels that EPA might make available to nonpoint sources, assuming that addressing this problem stays in the bill that emerges from Congress and is signed by the President.

Mr. JENSEN. Senator, I am not familiar with the exact resource levels, and I would be happy to provide that information to you.

Senator STAFFORD. All right.

Mr. JENSEN. I will say that in the several weeks that I have spent at the Agency, I have, certainly, come away with the impression that nonpoint source pollution is high on the priority list of things which the Agency is working on. So, I am confident from that experience that there are adequate resources to accomplish the goals that the Agency has set.

You are aware, of course, of the work that has been done to put together a nonpoint source pollution strategy which I think is to be commended. As I need not tell you, it is a difficult problem if for no other reason than the fact that there are so many potential people and organizations and individuals who contribute to it. And I think for that reason, any effort to control nonpoint source pollution has to be very much directed at public education and public involvement and making people generally aware.

My impression is that there are a number of, in some instances, fairly simple things that can be done to stop nonpoint source pollution, but it is a matter of changing old habits and management practices and farming practices. I would hope that we can make progress in doing that.

Senator STAFFORD. Good. Well, I like what you said in your opening statement, Mr. Jensen, and your answers to the questions.

I knew that anybody who lives in Minnesota with 10,000 lakes would get here this morning in spite of all the rain, so I expected that Senator Durenberger would be here. Since the Safe Drinking Water Act comes under his subcommittee, I will defer at this point, Senator Durenberger, to you.

Senator DURENBERGER. Mr. Chairman, thank you.

I note that there is one new lake in northern Virginia, and it is under the 14th Street Bridge, so it did take a little longer to get here.

Mr. Jensen, I am sorry to be late and have missed your presentation. Is that your family behind you?

Mr. JENSEN. Yes, this is my wife and children.

Senator DURENBERGER. How are you? Having raised four boys, I envy anybody who can raise such beautiful young women.

On the day that Ronald Reagan took office, we had quite a celebration around here, some of us just because we were Republicans. But the country also had something else to celebrate, and that was the release of 52 hostages from imprisonment in Iran.

My first question is whether or not Ronald Reagan might give us a similar break here today by permitting you to tell us whether OMB is going to release from hostage those 40 RMCL's that it has had imprisoned over there since April 9th.

Mr. JENSEN. Well, I would hope that my timing continues to be as good as the President's, because it so happens that I can tell you, Senator, that OMB yesterday afternoon released from hostage, as you would say, those regulations. I expect to have them in the Office of Water today. Once the review is complete, we will see that they are published in the Register.

Senator DURENBERGER. Can I, like Jimmy Carter, go see them just to prove they are there?

Mr. JENSEN. Yes, if you would like to send a delegation over to the Office of Water to confirm——

Senator DURENBERGER. Well, I may come myself.

Mr. JENSEN. We would be pleased to have you come.

Senator STAFFORD. Just make sure, Senator, that they are not watered down before you see them.

Senator DURENBERGER. Well, I have a wet yellow ribbon that I will bring over for Mr. Jensen.

Really, that is very good news. Can you tell me whether or not there will be time for the EPA to publish them all in the Federal Register by October 9 which is the date we put in that Superfund bill?

Mr. JENSEN. I had a chance to just chat briefly with the persons who will have to do most of the work, and their statement to me today was that that is not impossible. It would be difficult, but we are aware of your request and will bend our best efforts toward that, Senator.

Senator DURENBERGER. OK. When do you expect to publish the nine proposed MCL's which were released by OMB several days ago?

Mr. JENSEN. I understand that that package has completed the review in the Office of Drinking Water itself and has been sent forward to the Office of Water for a final review, so I would think that would be fairly shortly. I did not check on that this morning, so I cannot give you an exact date, but I understand that is where they are in the office.

Senator DURENBERGER. I have a couple of questions on antibacksliding, and I think you may have been asked or something similar. I am going to submit those two questions to you to respond to in writing, if you will.

Mr. JENSEN. Fine.

Senator DURENBERGER. While I am on the Drinking Water Act, courtesy of the chairman, for a minute I want to ask you a question about the philosophy behind the statute. The fundamental structure of the drinking water law is pretty simple. It has the Federal Government set standards which are called the maximum contaminant levels or MCL's as we are talking about. Then, rather than have the 50 States go out and do the health research and hire the technical experts that are necessary to tell us when drinking water is safe or not, the law has the National Government perform that function on behalf of the 50 States.

Once a standard is set for a particular contaminant, then the local water systems are required to monitor for that item. If it occurs, they are also required to take steps to treat the water supply so that it meets the Federal standard. That is currently done in this country by some 60,000 local public water supply systems, generally departments of local government.

The third factor in this federal system, the States, gets into the picture by enforcing this scheme on thousands of water supplies and by providing, in many cases, laboratory capacity to test water supplies.

So, my question is this. Do you support the Federal partnership that is reflected in the drinking water act and similar environmental statutes and, in particular, do you support the role for the National Government which has it establishing national standards of safety?

Mr. JENSEN. Very much so, Senator. I have taken occasion in the past several weeks to review the history of the drinking water legislation in the country. This partnership of which you speak has been in existence for some time. From what I can tell, it has been a successful partnership, one that has worked well with the National Government setting the standards and the States monitoring and implementing those standards.

I can see no reason why that shouldn't continue. I also understand that there has been concern about the Agency's ability to get some of the standards out. As someone who is considering taking over a responsibility for that office, that is something that I would certainly want to take a look at as one of the very first things I do to see if I can't facilitate that process.

Senator DURENBERGER. I just have a couple more questions.

Two questions on nonpoint source pollution, because besides being the land of 15,000 lakes, we are also the land of plenty in the agriculture production sense but not necessarily in the economic return sense. So, I have taken an interest in nonpoint source pollution.

The first of the questions is a comparison of the approaches that we have taken in nonpoint problems as compared to the strategy that we used on point source pollution. On point sources for industrial pollution, we set national standards and we simply say to the industries that are involved, you meet the level of technology which is being applied to every plant in the industry.

On nonpoint, we haven't been able to come to the same judgment. We just haven't been willing or able, I guess, to say to the farmers or to the timber companies or to the cities that control land use decisions that they have to meet discharge standards designed to protect the surface waters, our 15,000 lakes and our rivers and so forth, even though most of the states now say that nonpoint sources are their biggest pollution problem.

In the case of farmers, the Federal Government has, as you know, spent billions of dollars in Soil Conservation Service over the last 50 years to help reduce water runoff, but the soil loss in this country is still the same today, 4 or 5 tons per acre or something like that as it was in 1935.

Therefore, I am curious to know about what view you bring to bear on this. Should we insist that those who are responsible for nonpoint sources make some kind of a cleanup effort and bear some part of the costs like we did for industrial pollutors, or should we continue this voluntary route? In either case, what is your feeling for what the Federal role ought to be in nonpoint source pollution.

Mr. **JENSEN**. The thing that strikes me initially about the nonpoint source problem is that, as you are well aware, the potentially regulated community is a very different one and much, much larger one than the already rather large community that we regulate in the point source program. That seems to me a very significant difference when you are considering how to proceed through regulation or whatever to address the problem.

I was saying to Senator Stafford earlier it seems to me that many of the solutions to the nonpoint source problem are simple ones that can be adopted by individual farmers and others who might be contributing to this problem. But I think we are faced, as perhaps we are faced in the soil conservation situation, with a real need to educate people to the problem and to reach out and involve the people in finding the best commonsense solution to it.

I guess contemplating that large of a community that we would potentially be regulating makes me a little wary of rushing forward with some sort of comprehensive and mandatory Federal program just because of the size of the community that we would be affecting.

Senator **DURENBERGER**. I have another question on nonpoint sources that I will submit for the record, if I may.

Was Jerry Denton here and left? Am I holding him up?

Senator **STAFFORD**. No; Senator Denton is going to introduce the next nominee, Dave.

Senator **DURENBERGER**. OK. I need to cover the ground water side of it with you.

Mr. **JENSEN**. I thought you might.

Senator **DURENBERGER**. Let me just start with a simple question, whether or not, in your view, the President has established a ground water policy at EPA.

Mr. **JENSEN**. There is definitely a strategy and a policy in place, one that I understand took considerable effort to put together.

Ground water is sort of the unseen resource, and out of sight, out of mind. I think it has taken some heroic efforts by the people at EPA and in the States to bring together all of the disparate people and programs that affect the ground water resource and to put together a strategy that I think will really help us to coordinate the ground water protection efforts.

Senator DURENBERGER. But the question is, do you think there is a policy in place? I know everybody is getting pulled together and all that sort of thing, but is there a Presidential policy that you could quickly summarize for us that would articulate the role of the National Government, State governments, and so forth?

Mr. JENSEN. I think so, Senator. I think at least my understanding of it would be expressed in two ways. First, there are, as you are well aware, a number of environmental statutes already on the books which, when you analyze them, their primary purpose or at least their effect is to protect ground water from pollution, because ground water is the resource that will most likely be polluted by the contaminants that are regulated by those statutes. That being true, I think that the first part of the President's policy and a wise one is to begin to get people to think in terms of ground water protection as a purpose if not the purpose of those statutes so that their decisions under those statutes are made in consciousness of the effect on ground water and the need to protect the resource.

I think the second thing, and this is important from my perspective, is a conscious effort to assist the States in addressing the problem. From my background at Interior, I have a real strong sense of the legal and political tradition, particularly in the West, which places ground water management and control of ground water in the States. I think that the proper role for the Federal Government is to assist the States in developing their own ground water protection programs, and the Agency's policy is aimed at doing that.

Senator DURENBERGER. If that is the case, then what part does the classification scheme that the Agency has been developing play in this national role of assisting States? Why is the National Government in this scheme developing a classification system? And maybe you could describe it for us. What are the three ground water classes that are in it?

Mr. JENSEN. My understanding of the classification system is it is really a tool to assist people who are confronted with decisions in managing the environment, to assist them in making those decisions conscious of the effect that their actions may have on the ground water resource. I think it is a tool to be primarily used by the Federal Government itself.

Again, from my experience at Interior, the Federal Government still owns a third of this country. So, potentially, many of its activities could affect the ground water resource. Therefore, I think it is imperative that the Federal Government, for its own sake, have a reference point or a tool that will assist the managers in making decisions in such a way that we are going to maximize our efforts to protect the ground water.

As far as the States go, I think, as I understand, the classification guidelines are really in the form of assistance to the States. They can see what the Federal Government has done, how the Federal Government is helping its program managers to make those decisions. And, hopefully, they themselves can develop similar tools.

Senator **Durenberger**. Let me followup then on the front part of that which is that it is a tool that other Federal agencies will use in developing regulations, and let me use an example. The proposed regulations for nuclear waste disposal sites make use of the EPA classification scheme. Those regulations say that class 1 aquifers will be protected so that they are not contaminated above a specific level.

Let me remind you that class 1 aquifers are principal sources of drinking water that are vulnerable to contamination. They are the ones like the aquifer under Long Island or under Spokane, WA, or under Miami.

Do you think that we are going to be building nuclear waste disposal sites in or near the Long Island's or the Spokane's or the Miami's?

Mr. **Jensen**. Well, I would certainly hope not. I would think one of the primary purposes of the classification guidelines would be just that so that someone at the Department of Energy who is confronted with a decision about disposing of radioactive waste or nuclear waste would do so intelligently. That is to say, understanding that we simply cannot afford to have that type of activity anywhere near ground-water that potentially could be used for human consumption or human uses.

Senator **Durenberger**. But given that example, if by using this classification scheme we are protecting the folks that live in Miami and Spokane and Long Island, what protection does this classification system or the nuclear waste disposal site regulations that are propounded using those do for the rest of the groundwater in the United States, 98 percent of which is pure today and may be polluted tomorrow? What do you think the nuclear waste depository regulations have done with this classification scheme that EPA has developed? Have they made good use of it?

Mr. **Jensen**. Senator, I guess I am really not familiar with any particular use that the Department of Energy has made of the guidelines. I would be happy to review that for you, if you would like, and respond in writing. I can't really speak to the details.

I am sure that I would face, if I am confirmed, in the area of groundwater is of the type that you are pointing out here today, and that is it is one thing to say that you have as a goal coordinating Federal decisions on groundwater, and it is quite another to implement it. I am sure that it will take some personal attention to see that the classification guidelines really serve their purpose which is to ensure that the ground-water resources are protected.

Senator **Durenberger**. The reason I am asking these questions, and maybe I should have alerted you that I was going to ask them, but I need to make part of the record at this point, Mr. Chairman, a letter from the chairman of the Minnesota Governor's Task Force on High-Level Radioactive Waste which was written to me recently on the subject of the waste depository regulations. He, in effect, takes the position that we here at the Federal level are using the combination of those regulations and the EPA classification scheme as a smoke screen, I think he called it, for doing absolutely nothing to protect groundwater from the potential dangers of nuclear waste deposits.

So, if I may make that letter a part of the record and also provide you with a copy of it, perhaps the record might show a more specific response than I was able to elicit by my questions.

Senator STAFFORD. Without objection, we will make that letter a part of the record.

[The letter, with attachment, follows:]

Governor's Nuclear Waste Council

September 19, 1985

Honorable David Durenberger
U.S. Senate
375 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

As a member of the Senate Environment and Public Works Committee, I know you share our interest in protecting groundwater resources that are either existing or potential sources of drinking water. These resources may be adversely affected by new standards for radiation protection that have been developed by the Environmental Protection Agency (EPA).

Minnesota is now under consideration by the Department of Energy for a nuclear waste disposal site. The Nuclear Waste Policy Act of 1982 directed the EPA to prepare standards for protection of the general environment from releases of radioactive materials from these disposal sites. Minnesota has reviewed numerous drafts of the proposed rules and provided comments to the EPA over the past two years (our most recent comments are attached). During this time, we have witnessed a gradual weakening of the language, particularly with regard to protection of groundwater resources.

The final radiation protection standards that EPA is prepared to release are based on EPA's new aquifer classification system, which uses three categories of groundwater sources. The overall effect of the standards is to extend protection only to the Class I aquifers (currently irreplaceable drinking water sources) which are unlikely to be located at or near the rural nuclear waste disposal sites. Furthermore, they set a disturbing precedent by allowing for increased concentrations of radionuclides in Class I aquifers that already exceed the standards.

The EPA failure to recognize the importance of other existing or potential sources of groundwater, and the willingness to further

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degrade groundwater that exceeds standards, are inconsistent with a sound groundwater protection strategy. We hope that you and other Subcommittee members will voice their dissatisfaction with this EPA approach, and we also hope that your comprehensive groundwater protection bill will address these shortcomings.

Sincerely,

Tom Kalitowski

Tom Kalitowski
Chairman

cc: Judy Erickson

Enclosure

Governor's Task Force on High-Level Radioactive Waste

August 7, 1985

Mr. Charles Elkins
Assistant Administrator for
Air and Radiation, Acting
U.S. EPA
Washington, D.C. 20460

Dear Mr. Elkins:

The State of Minnesota has recently reviewed the EPA Working Drafts #6 and #7 of 40CFR191. In light of the numerous changes that have taken place since the proposed rule was issued in March 1983, we have serious concerns that we wish you to be aware of. We offer the following comments in this regard.

GENERAL COMMENTS:

We have witnessed the EPA continually weaken the standard under pressure from the Department of Energy (DOE). Each time a proposed draft was released that contained the more conservative language sought by the states, it was followed by other drafts that deleted that language or amended it to lessen the impact. During this past year, we have observed:

1. The allowable releases to the accessible environment increase by over a factor of seven.

   For example:

	Was (Curies)	Now (Curies)
Am 241	10	100
Am 243	4	10
Cs 137	500	1000
Ra 226	3	100
Sr 90	80	1000

2. The total abandonment of the ALARA (As Low As Reasonably Achievable) concept in working Draft #5.

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3. The continual loosening of groundwater protection requirements:

    a) the abandonment of protection outside the controlled area for "significant" sources of water, and

    b) an allowance (and in fact encouragement) for further contamination of already contaminated sites which could not meet the proposed standard.

4. Increases to allowable doses to the general public and workers:

    a) Working Draft #5 increased dose to critical organs from 25 mrem to 75 mrem at unregulated facilities under Subpart A.

    b) Working Draft #6 extended this change to include regulated facilities under Subpart B.

5. The continual relaxing of criteria required to obtain variances (now called alternative standards):

    a) Working Draft #6 deletes all references to the necessary criteria that the condition requiring a variance was "temporary and unusual".

    b) Working Draft #6 deletes all requirements for DOE to attempt compliance with the proposed standard.

    c) Three criteria listed in Working Draft #5 which designated which wastes were eligible for variances were weakened in Working Draft #5 and removed in Working Draft #6. (See below).

6. The relaxation of the implementation section which allows a 60% increase rate for low burnup fuel.

7. The removal of the assurance requirements on NRC regulated facilities before the NRC incorporates them into their Regulations. In the past, Minnesota had proposed that a memorandum of understanding be used to commit the NRC to adoption of the EPA standards. In the absence of any agreement, there is no guarantee that in the final outcome they will look anything like what EPA intended.

9. The total disregard for State comments on this standard. If comments have been considered at all, it has been done in a negative sense, i.e. when EPA discovered what was liked and supported by the State these items were deleted or changed in a subsequent draft. We would also like to point out,

> that during this same time period, a considerable number of meetings were held between DOE and EPA. A review of the meeting notes indicates that most of DOE's comments have been accommodated by your agency.

In summary, it is obvious that during the past year the EPA has yielded to DOE pressure to degrade the standard in order to avoid Office of Management and Budget rejection of the proposed rules.

The real question now is whether or not the lowered standards are safe. Certainly they no longer are as conservative as they originally were and they do not now reflect the ALARA principle. Because of the long history of increasingly stringent radiation standards, and because of the uncertainties associated with long-term radiation exposure, the proposed standard should be conservative. They should not be tailored to fit existing sites already under consideration by DOE.

While we recognize the need to promulgate these rules as soon as possible, we are very disappointed with the cumulative effect of changes made since they first appeared in draft form. Although it may be too late to consider the following specific comments on Working Draft #6, given the expected date for promulgation, we wish to submit them for the record and intend to further explore options for recourse. We also wish to again call your attention to our past submissions of comments on the proposed rules dated May 5, 1983; October 17, 1983; July 6, 1984; and May 31, 1985.

SPECIFIC COMMENTS:

191.04(a)2. This paragraph formerly read:

> "The Administrator determines that a temporary and unusual operating condition exists and that continued operation is in the public interest; and ...".

In Working Draft #6 the words "temporary and unusual" have been removed. This sentence was part of a list of conditions which had to be met before a variance (now termed an alternative standard) could be issued. This unnecessary relaxation of conditions apparently stems from the need to accommodate the existing problem with the storage of defense wastes at Hanford, Washington.

191.04(b). In working draft #5, this section read as follows:

> "An application for a variance shall be submitted no later than 30 days after the Department determines that a temporary and unusual operating condition exists or will exist and shall include the following: ...". (Nine major items then followed, some contained numerous subitems.)

In draft #6, this now reads:

> "An application for alternative standards shall be submitted as soon as possible after the Department determines that a facility will exceed the levels specified in 191.03(b) and shall include all information necessary for the Administrator to make the determination called for in 191.04(a)."

The idea of "temporary and unusual" has again been dropped. This leaves the door open to granting a variance for 'permanently unusual' facilities to exceed the standard from the outset.

The required information has also been deleted, leaving it very unclear as to what information is required. The list of nine major items that were deleted included the following:

1) A description of the controls to be installed to comply with the Standard;

2) A compliance schedule, including the date each step toward compliance will be reached.

By dropping these items EPA has indicated it no longer assumes that DOE will eventually comply with the regulations. Instead, no compliance is now indicated whatsoever.

191.15. A new section entitled Individual Protection Requirements has been added to Subpart B. This protection requirement for NRC regulated facilities is less stringent than for regulated facilities in Subpart A; and is equal to the doses allowed unregulated facilities in Subpart A. There is no reason for regulated facilities to have different dose limits under Subparts A and B, and the lower limits in Subpart A should be extended to Subpart B.

191.16(a). Minnesota strongly urges the EPA to restore the former wording of "significant" source to this paragraph. The use of the word "special" source renders this paragraph totally useless to almost all sites under consideration in the first and second round repository program. First, the most glaring problem with this change is that "special" source aquifers have not been identified, although it is made clear that the definition will require such an aquifer to locally serve thousands of people. As it now stands, a highly productive and transmissive aquifer could be present at the site; without the population to use it, however, it would not be considered "special". This change has rendered this section totally meaningless.

191.16(b). The new wording is actually better than the last draft in that the 10% increase has been dropped. However, we still believe that EPA should not allow already contaminated areas to become more contaminated. It is EPA's duty to clean up the existing contamination if it is already in excess of the standard, not worsen it.

191.17(a). The three conditions which needed to be met before a variance could be granted have now been removed. In Working Draft #4 these provisions read:

"wastes that:

1) existed on the effective date of this Subpart.

2) have been stored in such a manner that retrieval and relocation of the waste would be unusually difficult and would present substantial risks to human health and the environment; and (In Working Draft #5 the and was changed to or, thus already beginning to erode the intent.)

3) can be isolated from the environment so that the risks from such isolation ... are projected to be less than or comparable to the risks from retrieval and relocation to a disposal system that would comply with Subpart B.

The removal of these conditions is disturbing. There are no advance criteria to judge what would be allowed a variance. EPA has given DOE a free hand to ask for variances on just about anything, with no comparative risk assessment now required.

In addition, this section now reads:

> "The administrator may, by rule, substitute for any of the provisions of Subpart B alternative provisions that are subsequently determined to be more appropriate ..."

This raises the question of how the Administrator will determine these provisions are more appropriate, as well as what the new provisions will be.

Appendix A, Table 1. Working Draft #6 has allowed the amount of Sr 90 to increase from 100 to 1000 curies per MTHM. This increase is unwarranted. The SAB report listed 400 plus curies to be the acceptable release. EPA then chose to round these numbers to the nearest order of higher magnitude rather than round to a lower number. Working Draft #5 already increased the total curies released per MTHM by a factor of 7. Why should strontium releases again be increased, particularly when most of the Sr 90 (with its relatively short half-life) should have decayed to fairly low levels by 1,000 years?

Appendix A, Note 3. The limits placed on low-burnup fuel are also of concern. A great deal of the defense waste at Hanford is low-burnup fuel that could eventually be moved to a repository for disposal. By changing this limit, a 60% increase in releases can be calculated under certain conditions.

Release rate for burnup of 3,000 MWd/MTHM as calculated in Working Draft #5:

$$\frac{60{,}000\ \text{MTHM}}{1{,}000\ \text{MTHM}} \quad \text{x} \quad \frac{3{,}000\ \text{MWd/MTHM}}{30{,}000\ \text{MWd/MTHM}} \quad = \quad 6$$

Release rate as calculated by Working Draft #6:

$$\frac{60{,}000\ \text{MTHM}}{1{,}000\ \text{MTHM}} \quad \text{x} \quad \frac{5{,}000\ \text{MWd/MTHM}}{30{,}000\ \text{MWd/MTHM}} \quad = \quad 10$$

This is a 60% increase in releases, and a justification is warranted.

Appendix B. An explanation is also required for the addition of the word "intermittent" intrusion. Does the Agency believe that intrusion will be continued?

This concludes our general and specific comments on Working Draft #6. It is our understanding that Working Drafts #7 and #8 were also issued by EPA, but we have prepared no comments on these drafts because they were not distributed to the states.

Sincerely,

Tom Kalitowski

Tom Kalitowski
Chairman

cc: AG
Health Department

Senator DURENBERGER. Mr. Jensen, thank you very much.

Mr. Chairman, I appreciate very much Mr. Jensen's candidness and also his eagerness to do well at this job, and I am sure we will be seeing much more of each other.

Mr. JENSEN. Thank you, Senator.

Senator STAFFORD. Thank you, Senator Durenberger.

I am about to recognize Senator Baucus who is the ranking minority member of the subcommittee in question, but before I do that, I have promised Senator Inouye that I would bring a matter to the attention of the committee this morning, and this may be the largest attendance we will have. So, let me point out to my colleagues that according to the Hawaii Department of Transportation, in 1960, a segment of highway called H-3 was added to the interstate system.

Since that time, a number of State agencies have worked together in developing a part, which I won't try to pronounce—it is something like Humalahahua—near the proposed highway. Originally there was a buffer strip between the highway and park, but officials feared there would be development in the buffer zone which would adversely affect the park. The Hawaii Department of Transportation agreed to purchase the buffer zone and donate the land to the park to preclude any development. Consequently, the proposed highway alignment and the park now have a common boundary.

The U.S. Ninth Circuit Court found that under 4(f), although H-3 does not take any park land, the highway is a use of air and noise amenities. There is another alignment which the court believes is a prudent and feasible alternative. The Hawaii Department of Transportation maintains this alternative costs $42 million more and displaces 31 homes, 4 businesses, and 1 church.

The Ninth Circuit Court of Appeals has refused to rehear the case, and the U.S. Supreme Court has denied review. Therefore, Senator Inouye has asked this committee to review the situation.

I would say to my colleagues that out of consideration for the Senators from Hawaii and their problems, at some convenient time, I propose to do that. This is simply to put the committee on notice that the chairman wishes to do that sometime between now and final adjournment this fall and as soon as we can conveniently do so unless there is serious objection, and I hear none.

Now, Senator Baucus, we would be glad to hear any statement you wish to make or any questions you wish to ask.

Senator BAUCUS. Thank you, Mr. Chairman.

I have no statement. I do have a few questions, though.

Mr. Jensen, I first want to thank you as a representative of EPA for the effort that EPA has undertaken in negotiating or attempting to negotiate some agreement with Canada on the IJC transboundary water treaty. EPA has spent about $100,000 in trying to work out some agreement with Canada in order to learn what water pollution problems are caused by a project called Cabin Creek just over the Canadian border. I want to thank you, on behalf of EPA, for helping out and I urge you to continue doing so.

Second, I am happy to hear, in response to Senator Durenberger's question, that EPA will be releasing those Safe Drinking

Water Act standards. I understand they will be in the Federal Register October 9, is that correct?

Mr. JENSEN. That is the goal.

Senator BAUCUS. I urge you to achieve that goal.

Mr. JENSEN. Well, if I am empowered, I will do my best.

Senator BAUCUS. Third, Senator Symms and I got an amendment passed not too long ago in this committee with the help of the chairman asking EPA to investigate and to try to determine the sources of pollution of the Clarkport-Columbia River. Basically, it is as the Clarkport flows into a lake in Idaho. Unfortunately, that legislation has not yet gone to conference so it is not law yet.

I am wondering if you know anything about EPA's efforts to date in trying to crank up that investigation even though it is not yet legislation?

Mr. JENSEN. Senator, I will confess I am aware only in general terms of the problem that you are facing up there. I would be happy to get you some more specific information if you would like.

Senator BAUCUS. I wish you would, and if you have an opportunity, I would like to have you visit the river. It is one of the more, unfortunately, polluted rivers in our State and has lots of problems. There are lots of different sources. It would make a big difference to us and to Senator Symms, I know, if you could come. In fact, he personally wanted me to raise this since he is unable to be here.

Mr. JENSEN. I appreciate the invitation. I know something of that part of the country, and any time someone invites me to travel in that part of Montana, I am more than happy to do it. That is a beautiful part of the State.

Senator BAUCUS. We brought Mr. Thomas out. I think he enjoyed it very much.

Finally, how is it that you are appointed to this position? Is this something that you sought or did the administration ask you?

Mr. JENSEN. I guess more the latter than the former, Senator. I was, as you know, at the Department of the Interior working in the Solicitor's Office and enjoying it very much. It was a very challenging legal practice and also a very exciting set of issues that Interior was working on. Contact was made asking if I might be interested, I suppose partly out of my experience with the water programs at the Department of the Interior. I said that I would be, and it went from there.

Senator BAUCUS. So, the administration essentially came to you and asked you if you would like to take this position.

Mr. JENSEN. More so than my actively seeking it. Yes, sir.

Senator BAUCUS. Now that you have accepted, do you have any goal, any mission, anything you are trying to achieve here or would try to accomplish?

Mr. JENSEN. I appreciate the chance to comment on that. I alluded to it in part in my opening statement.

I have had a chance in the past several weeks to get to know the water programs at EPA quite well. My first commitment, if I am confirmed, as I move into the Office of Water will be to see that the programs which are already in place there, because much has been accomplished in the Office of Water already, that they are implemented fully and successfully. My agenda is to get on with the task of seeing that the intent of those statutes is carried out as well as it can be.

I am also interested in some of the emerging issues which have been discussed here today, ground water, the nonpoint source pollution, questions of water pollution on which we have not really reached consensus yet on about how to most effectively approach those. I would hope to participate in that policy discussion.

But really my first priority is a simple one. If I am confirmed and sworn to uphold the law and execute it, that will be what I will bend my whole effort toward.

Senator BAUCUS. Do you see yourself inclined toward more vigorous enforcement, less vigorous enforcement, or enforcement about the same level as you perceive it to be?

Mr. JENSEN. I speak here from small experience with actually regulating as I would have the responsibility of doing at EPA. My personal inclination—it seems to me enforcement has to be put into an historical context. As I look at some of the clean water and safe drinking water programs, I think we are at a point where there needs to be more enforcement rather than less.

I think you start in a regulatory program by trying to cooperate as fully as possible with the people that you are regulating. You give them every chance to develop their programs and to carry them out. If you are unsuccessful in that, then you need to take stronger enforcement measures. I have noticed in reading the national municipal policy at EPA that it seems to me that we have reached a point in attempting to get municipalities to comply with the requirements of the Clean Water Act where we need to take a fairly strong enforcement stance. Based on what I know now, that would be my intention.

Senator BAUCUS. Do you have any sense yet whether you think the law should be changed at all in any way to help you as administrator?

Mr. JENSEN. Well, I am aware that there are some provisions in the two bills before the Congress now, the reauthorization of the Safe Drinking Water Act and the Clean Water Act, which give the Agency, if I am not mistaken, administrative authority to assess penalties so that the Agency doesn't have to go to court in order to use that sanction. I welcome that. I think those would be useful powers and would really benefit the effort to get compliance with the water protection statutes.

Senator BAUCUS. I appreciate that. I strongly encourage you to exercise every ounce of energy and imagination at your command to help enforce the laws and even perhaps be even more vigorous in your enforcement. Obviously, as this country works to improve its economic status through all the means that are available, whether it is international competitive position or whether it is budget deficits, interest rates, or monetary policy or whatever, Americans also want to enjoy the environment. And that means certainly clean water and all of its ramifications.

So, you have a very strong commitment, in my view, to pursue that goal vigorously, and I wish you good luck.

Mr. JENSEN. Thank you very much, Senator.

Senator STAFFORD. Thank you, Senator Baucus.

Mr. Jensen, you can see how much interest this committee has in the responsibilities that you are about to undertake. Thank you for being with us this morning and for bringing your family in with you.

Mr. JENSEN. Thank you very much. I appreciate it.

[Mr. Jensen's résumé and responses to a committee questionnaire and additional questions follow:]

Lawrence J. Jensen (Woodbridge, VA)	Assistant Administrator (Water Programs) EPA
1981 - present	Associate Solicitor, Department of the Interior
1979 - 1981	Associate, Jones Waldo, Holbrook and McDonough, Salt Lake City, UT
1976 - 1979	Trial Attorney, Civil Division, Department of Justice,

LAWRENCE J. JENSEN

3138 Ironhorse Drive
Woodbridge, Virginia 22192
Telephone (703) 491-1302 (Home)
(202) 343-5757 (Work)

PROFESSIONAL EXPERIENCE

Associate Solicitor, Department of the Interior,
Washington, D.C., 1981 - present

Energy and Resources - I was appointed in June 1983 by Secretary Watt to head the Division of Energy and Resources in the Office of the Solicitor. In that capacity, I supervise the work of 35 attorneys and serve as principal legal counsel on resource issues to the Assistant Secretaries for Land and Minerals Management and Water and Science and to the Bureaus of Reclamation and Land Management and the Minerals Management Service. I thus have responsibility for legal issues arising out of the Department's (a) water quality and development programs, (b) mineral leasing programs, both onshore and on the Outer Continental Shelf, including international boundary disputes, (c) royalty management programs, and (d) land management programs, including grazing, timber, and land acquisitions and exchanges. I have acted as a principal negotiator for the Department in settling complex water rights and royalty disputes.

Indian Affairs - From October 1981 to June 1983 I served at Secretary Watt's appointment as principal legal counsel to the Assistant Secretary for Indian Affairs and to the Bureau of Indian Affairs. In that capacity, I supervised the work of 20 attorneys and had responsibility for legal issues arising out of the whole range of programs administered by the Department for the benefit of the nation's Indians and Indian Tribes, including (a) water rights, (b) land management, (c) mineral and resource development, (d) education and (e) social services.

Associate, Jones, Waldo, Holbrook and McDonough,
Salt Lake City, Utah, 1979-1981
Trial Attorney, Civil Division, Department of Justice,
Washington, D.C., 1976-1979 (Attorney General's Honors Program)

LEGAL EDUCATION

J.D., Brigham Young University, 1976
J. Reuben Clark Scholar (top 10% of class)
Comment Editor, BYU Law Review
Recipient, Stephen L. Richards Scholarship, 1973-1976

UNDERGRADUATE EDUCATION

University of Utah, B.A., 1973
Cum Laude graduate in History
Yale University, 1967-1969
National Merit Scholar

POLITICAL EXPERIENCE

Reagan Delegate, 1976 and 1980 Utah State Republican Conventions
Campaign Staff, 1980 Republican Nominee for Governor of Utah
Life Member, Republican Party

PERSONAL

Age 35
Married to Terri Fisher
Father of Jenny, Sarah Beth, and Emily

REFERENCES - Upon request

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:	Jensen	Lawrence	Jeremy
	(Last)	(First)	(Middle)

Position to which nominated: Assistant Administrator for Water U.S. Environmental Protection Agency

Date of Nomination: September 9, 1985

Phone: (o) 382-5700 (h) (703) 491-1302

Date of birth: 7/1/50 (Day) (Month) (Year)

Place of birth: Salt Lake City, Utah

Marital status: Married

Full name of spouse: Terri Fisher Jensen

Name and ages of children:

Jennifer Maurine	7
Sarah Elizabeth	5
Emily Anne	2

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Yale University	67-69		
University of Utah	71-73	B.A.	1973
Brigham Young University	73-76	J.D.	1976

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Trial Attorney U.S. Department of Justice

Washington, D.C.

1976-1979

Associate (General litigation practice) . Jones, Waldo, Holbrook & McDonaugh

Employment record—Continued

Salt Lake City, Utah

1979-1981

Associate Solicitor U.S. Dept. of the Interior

Division of Indian Affairs Washington, D.C.

1981-1983

Responsible for supervision of 20 attorneys and all legal affairs arising out of Interior's responsibilities for Indians

Associate Solicitor U.S. Dept. of the Interior

Division of Energy and Resources Washington, D.C.

1983-Present

Responsible for supervision of 35 attorneys and legal issues pertaining to the Bureau of Reclamation, Bureau of Land Management and the Minerals Management Service

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

National Merit Scholar

Recipient, Stephen L. Richards Scholarship (full merit scholarship for three years of law school)

Comment Editor, BYU Law Review

J. Reuben Clark Scholar (top 10% of law school class)

U.S. Attorney General's Honors Program

Superior Service Award, U.S. Department of the Interior

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
J. Reuben Clark Law School Brigham Young University	Member, Board of Visitors	1983-Present

Qualifications: State fully your qualifications to serve in the position to which you have been named.

I have almost seven years experience as a government attorney litigating and counseling on all aspects of Federal statutory programs. I served for four years at the Department of Interior as a political appointee at a policy-making level involved in natural resource management and environmental issues. At Interior, I had significant supervisory responsibilities. I have a deep, personal commitment to the rule of law and the democratic process and am willing to devote my very best efforts to administering EPA's water quality responsibilities.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Associate Solicitor, U.S. Dept. of the Interior -- leaving to accept

Presidential nomination to be Assistant Administrator for Water/EPA

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

   None

3. Are any assets pledged? (Add schedule).

   Personal residence is mortgaged

4. Are you currently a party to any legal action? No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

   Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I have been fully briefed by the Agency Ethics Officer on all applicable laws and regulations and will strictly observe them.

See Attachment.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

Life Member, Republican Party

Campaign Staff, Republican Nominee for Governor of Utah (Bob Wright) 1980

Delegate, 1976 and 1980 Utah State Republican Conventions

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

   None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

   Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

   No

AFFIDAVIT

Lawrence J. Jensen) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Lawrence J. Jensen

Subscribed and sworn before me this 16 day of September 1985

Notary Public

My Commission Expires October 14, 1988

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

SEP 16 1985

Mr. David H. Martin, Director
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

Dear Mr. Martin:

As required by 5 C.F.R. §734.604(c), I have reviewed the Executive Personnel Financial Disclosure Report submitted by Lawrence J. Jensen in connection with his nomination as Assistant Administrator for Water of the Environmental Protection Agency.

I have determined that the report is complete and discloses no likely conflict of interest under applicable statutes and regulations. Accordingly, I have signed and dated the enclosed report. I have provided the nominee with a briefing on ethics and standards of conduct and the applicable statutes and regulations.

A statement of the organization and functions of the Office of Water is also enclosed. Please call me at 475-8064 if you have any questions.

Sincerely,

Gerald H. Yamada

Gerald H. Yamada
Deputy General Counsel
Designated Agency Ethics Official

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 8 1985

OFFICE OF
WATER

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Attached are my responses to the written questions I received from you, Senators Chafee, Bentsen, and Lautenberg following my confirmation hearing on September 27. Also incorporated in the package are my answers to the questions asked by Committee staff during my visit with them on October 2.

I appreciate this additional opportunity to respond to issues of concern to you.

Sincerely,

Larry Jensen

Larry Jensen
Assistant Administrator
for Water Designate

Enclosure

Confirmation Hearing Questions

Senator Stafford

Q: This Committee has been increasingly concerned about interference by the Office of Management and Budget in the Agency's decision-making processes. It is the view of this Senator, at least, that the environmental laws are clear that the Administrator, and no one else, has the responsibility for making implementation decisions.

What is your view of the proper role of OMB, and what will you do if the OMB position conflicts with your own?

A: The statutes administered by EPA place the responsibility for making regulatory decisions with the Administrator. It is incumbent on the Agency to do the necessary scientific, technical and legal analysis and to formulate the response it believes is the most appropriate in light of the mandate it has from Congress. Proposed agency actions are submitted for OMB review pursuant to Executive Orders 12291 and 12498. Under these Executive Orders, OMB reviews agency rules for consistency with both policy direction from the Administration as well as consistency and coordination between agencies. The Administrator of EPA makes the final decision, based on his responsibility to manage the agency in a manner consistent with environmental statutes and the mission of the agency.

As Assistant Administrator for Water, I would be firmly committed to support EPA's mission to protect human health and the environment through issuance of regulations, health advisories, agency policies and guidance. I believe that my responsibility would be to take actions consistent with EPA's statutes and to recommend such actions to the Administrator. Where my decision is challenged by OMB, I will make my final recommendation to the Administrator based upon what I consider to be consistent with EPA's statutes and in the best interests of the goals of the agency and the water program.

There have been occasions when OMB review under Executive Order 12291 has taken longer than the Order provides. This is a serious concern to me and, if confirmed, I would make it a top priority to discover the causes of such delays and to work to eliminate them. If OMB review of a particular regulatory package were not complete in time to meet a court-ordered deadline, I would feel obligated to recommend to the Administrator that the package be published even though the review was not complete. Other circumstances in which a similar recommendation would be appropriate would need to be evaluated on a case-by-case basis.

QUESTIONS FROM SENATOR STAFFORD FOR LARRY JENSEN

QUESTION: The Agency repeatedly has failed to meet its own schedules and commitments for promulgation of criteria for sewage sludge use and disposal. Both House and Senate bills to amend the Clean Water Act would set new, enforceable schedules. Are you familiar with those provisions? Can you assure this Committee that you will take this program seriously and get these criteria published on time?

ANSWER: With respect to the development of sludge regulations generally, I am fully aware of the Committee's concern and of the failure by the Agency to meet certain of its commitments. If confirmed, one of my top priorities will be to get the sludge regulations published in timely fashion. I will start by immediately determining why OMB's review of the sludge management regulations which have been at OMB for several months is not yet complete. I will then make every effort to see that the review is completed expeditiously. With respect to your specific question, I am familiar with the provisions on sludge regulations in the House and Senate versions of the Clean Water Act reauthorization and, if they are enacted, I will involve myself personally in insuring that the criteria required by the provisions are published on time. The wise management of sludge is an important matter affecting both human health and the environment.

STAFFORD
SUPPORT OF TECHNOLOGY-BASED STANDARDS

QUESTION: The 1972 Clean Water Act, unlike previous water pollution laws, is based on a system of technology-based standards.

Do you support this concept?

ANSWER: Yes. Nationally uniform standards of point source pollution control are the essential basis of EPA's efforts to clean up the Nation's waters. Progressive (staged) improvement of treatment through application of BPT and then BAT for industrial dischargers and secondary treatment for municipal dischargers is the cornerstone of the Act. Applying the levels of treatment uniformly across industries, and States without relying on local water quality is equitable, environmentally sound and, by definition, economically achievable. The Agency is currently studying additional industries that may warrant national regulation.

Even in those cases where technology-based controls do not result in "readily definable" improvements, applying these controls is consistent with the goals of the Act to continue making progress toward eliminating the discharge of pollutants. However, in other cases where installation of technology-based controls is not sufficient to meet local water quality standards, it may be necessary to go beyond BAT using more stringent water quality-based controls. It should be clear, though, that the technology-based standards are the mininum (floor) of treatment. Water quality-based controls are used for site-specific improvements past the minimum.

QUESTIONS FROM SENATOR STAFFORD FOR LARRY JENSEN

Q. Both the Senate and House bills seek to limit the opportunities for ocean discharge waivers.

- Do you agree with and support this policy?
- Under what conditions should discharges to the ocean be allowed?

A. With regard to limiting opportunities for 301(h) ocean discharge waivers, the Agency's experience has been that applicants proposing less-than-secondary treatment discharges into stressed estuaries cannot meet the 301(h) criteria. Because of this, I would be generally supportive of restrictions in the Senate bill on the eligibility of saline estuaries which at the time of application do not meet the 301(h) criteria.

The provisions of §301(h) currently set forth a number of stringent requirements which an applicant must satisfy in order to obtain a wavier from the secondary treatment requirements for a municipal discharge to marine waters. I believe these criteria generally provide adequate safeguard for our marine waters, and the Agency will continue, as it has in the past, to carefully review 301(h) applications for compliance with these criteria. Less-than-secondary discharges into marine waters should be allowed only when the technical and scientific review indicates the 301(h) criteria are met. In addition, if a 301(h) waiver is approved, adequate monitoring is essential to validate the predictive analyses utilized in 301(h) decisions and to assure ongoing compliance with the 301(h) criteria, and 301(h) permits will require that this essential monitoring is carried out. Upon a determination that the 301(h) criteria are met and steps to implement needed monitoring, I believe that 301(h) ocean discharges are appropriate.

CHAFEE

DEADLINES: BAT EFFLUENT GUIDELINES

QUESTION: The Organic Chemicals and Plastics and Synthetic Fibers Category is the final consent decree regulation to be promulgated. Will the scheduled Court deadline for March 1986 be met? If not, why?

ANSWER: The scheduled Court deadline of March 1986 to promulgate OPCSF BAT regulations will not be met. In compliance with the Court's October 26, 1982 Order, the proposed regulations for the OPCSF industry were signed by the Administrator in February 1982 (48 FR 11828, March 21, 1982). This category represents the most complex and controversial industrial regulation on which the Agency is working. There are approximately 981 plants with estimated annualized costs of $720 million.

Based upon 4,000 public comments received at proposal from industry, environmental groups and others, the Agency identified many unresolved technical issues which required additional data collection. Many of the commenters contended that the existing database needed substantial improvement. Therefore, major steps were taken to gather new data from all OCPSF manaufacturers and to conduct additional toxic pollutant field sampling in order to supplement the existing data.

We are continuing to make good progress in resolving the new issues. For example, as a result of the recent data collection effort, on July 17, 1985 (50 FR 29068), the Agency published a Notice of Additional Data for public comment. Significant issues of concern include in-plant control for volatile organic compounds and the level of economic impact of plant closures and line shutdowns. The comment period (originally scheduled to end October 15, 1985) has been extended for 60 days as requested by industry.

At the end of the comment period, we will develop a schedule, which will be submitted to the Court, for issuing a final regulation. I am personally committed to promulgating a regulation of the highest quality. Because of the technical complexity of the industry, our evaluations must be thorough. After we have had an opportunity to look at the public comments, we will know better when we can issue a final rule. We will keep you apprised of our schedule.

CHAFEE

DEADLINES: BAT EFFLUENT GUIDELINES

QUESTION: I believe all of the effluent limitation BAT (Best Available Technology) guidelines for the major industrial categories--except the organic chemical guidelines have been promulgated. Our clean water bill reaffirms EPA's responsibility to promulgate additional BAT guidelines for industrial categories not now covered. I know the EPA has been looking at several industries where new BAT guidelines would be appropriate. Will you aggressively move forward on this and identify industrial categories for which BAT guidelines would apply?

ANSWER: All of the BAT guidelines for the major industrial categories have been promulgated with the exception of the organic chemicals, plastics and synthetic fibers industry and Foundries. The effluent guidelines program is continuing to analyze industrial discharges of toxic pollutants for which BAT effluent guidelines may be appropriate. We have identified at least three categories that warrant detailed characterization of their waste water discharges and evaluation of control technologies: hazardous waste treatment facilities, solvent reclaimers and washout facilities of transportation sources. In addition we are reviewing other categories for additional guidance or regulation to control toxic discharges.

QUESTIONS FROM SENATOR CHAFEE FOR LARRY JENSEN

404

Q: Although Ms. Manson will be responsible for administering the 404 program in Washington, I expect you will play some role in this squabble over the definition of fill material. The Army and EPA are quibbling over what is fill material -- if it is "waste" the Army says it should be regulated with a 402 NPDES permit and if it is fill they say it should be regulated under 404.

o What is your view on this?

A: The settlement agreement reached in National Wildlife Federation v. Marsh (filed on February 9, 1984) required EPA and the Corps of Engineers to reach an agreement by May 9, 1984 on the definition of fill material. This definition has not been agreed upon at this time. However, EPA and the Corps have each developed data on the scope of impact of this issue. We are working with the Corps to develop a common definition of fill material, considering these data along with other legal and environmental concerns.

I understand that a number of reasons have been advanced to support the position that solid waste disposal to wetlands should be permitted under Section 404 of the Act. These include the following:

- The Section 404(b)(1) guidelines address a broader range of biological effects associated with solid waste disposal than does 402. They more effectively protect the integrity of aquatic habitat because, under 404, the guidelines allow consideration of the effects of physical destruction of habitat and not just water quality. While 402 discharge permits must be consistent with State water quality standards, those standards limit chemical changes in water quality but do not address wetlands protection per se nor physical changes to biological habitat.

- Use of section 402 permits would protect dischargers from RCRA permitting requirements even where such requirements are clearly appropriate. Use of section 404 permits would not provide this shield.

- Section 402 is not the proper authority for permitting such activities because it provides for permitting the source of the discharge, not the site of the discharge. For example, under section 402, a permit would be required for every truck that discharges solid waste at a particular site. Furthermore, it would be extremely difficult or impossible to develop technology-based limitations for solid waste discharges, because of the variety of sources, the many kinds of materials which might be discharged, and the variety of disposal sites which could be used. In contrast, section 404 regulates activities at a particular site. Thus, section 404 would be administratively less difficult and burdensome, and a more appropriate means of regulation.

- Unlike the Corps under the 404 program, EPA under the section 402 NPDES program cannot make determinations based directly on an evaluation of the appropriateness of the proposed disposal site. In accordance with the 404 (b)(1) guidelines, the Corps requires permit applicants to identify alternative disposal sites. The Corps can deny permits based on the presence of available alternative sites which would have less adverse impact on the aquatic ecosystem. Such authority would be highly desirable, if not essential to regulating solid waste disposal to wetlands. However, there is no authority in section 402 for making permit decisions based solely on the availability of alternative, less environmentally damaging sites. Section 402 provides for only technology-based effluent limitations, except where water quality standards require more stringent conditions. Unless limits could not be derived that would provide for meeting water quality standards, the §402 permit must be issued. This would preclude meaningful consideration of alternatives and of site-specific factors.

- I recognize that this issue has spanned many years without resolution. The factors listed above appear to make a convincing case to regulate this type of "fill material" into waters of the United States under section 404. I intend to become actively involved in this protracted issue to bring it to full resolution.

Q: Will you support using the definition of fill EPA promulgated for State programs for the Federal program?

A: The definition of fill promulgated by EPA to be used by State 404 programs is found at 40 CFR 233.3. (Copy attached.) I would support this definition because it does not rely on the intent of the discharger in placing the fill material at a specific site, as does the Corps definition.

QUESTIONS FROM SENATOR CHAFEE FOR LARRY JENSEN

STATE DELEGATION

QUESTION: Under the Clean Water Act, States are allowed to run the NPDES permit discharge program only if they meet EPA's stringent delegation requirements. Several States have fallen down on the job of administering the program and I understand Mr. Ravan had instituted a "Watch List" of States that had problems.

o Will you continue updating this list and will you take action against recalcitrant States to assure the goal and requirements of the Act are met?

ANSWER: As you know, the "Watch List" identified by Jack Ravan was a list of States with problems of special concern to the Assistant Administrator. Clearly, the States he named were experiencing special problems at that time, ranging from unacceptably high backlogs of expired permits, to citizen petitions for EPA to withdraw program approval. However, the list itself was established informally, without formal criteria or procedures for naming States to or removing them from the list. I am now reviewing whether to continue use of a "Watch list" as a State program oversight tool.

EPA has a continuing responsibility to ensure that State programs are at all times administered consistent with the CWA. The Watch List may serve as an effective supplemental Agency oversight tool for assuring correction of inadequate programs short of withdrawal proceedings.

The increased attention from both EPA and the public generated by the Watch List has provided additional incentives for States on the List to correct program deficiencies. However, it is important that States understand the reasons for their listing and what must be done to get off the list, preferably in advance of any publicity.

Regardless of my decision on the continued use of the Watch List, EPA will of course continue to monitor State program performance and work closely with those States which have experienced problems with running an adequate NPDES program. Where necessary, EPA will take actions to ensure that State program deficiencies are corrected. These actions include: informal discussions with the State, performance-based grants sanctions, and the negotiation of agreements for State corrective actions. The choice of which tools to use depends upon the severity and longevity of the State program deficiencies.

EPA is currently working closely with a number of States to correct program deficiencies. For example, EPA has identified significant problems with the State of Connecticut's program, including permit backlog, lack of regulations and inadequate resources. EPA and the State have been discussing corrective actions to address these deficiencies, which may be embodied in an agreement. Similarly, in Virginia, EPA has monitored the State's progress in addressing problems identified in a petition for withdrawal filed by the Environmental Defense Fund and has proposed a settlement agreement between EPA and EDF which would reflect corrective action measures the State has agreed to undertake. In Colorado, EPA worked with the State to amend its statute by eliminating a variance which was inconsistent with the CWA and is still working with the State to revise regulations to make the Colorado program consistent with the CWA.

EPA anticipates that these measures will be adequate to remedy any State program deficiencies. However, EPA will exercise any method to carry out its statutory responsibility of ensuring that State programs are administered in accordance with the CWA, including program withdrawal. Where a State clearly demonstrates an inability or unwillingness to administer an adequate program consistent with the CWA despite EPA efforts to help remedy program deficiencies, EPA will initiate program withdrawal proceedings.

Q: If Army prevails in their position, could those who call their fill "waste" and thus receive a 402 permit, circumvent the stringent waste disposal requirements established under RCRA?

A: Section 1004(27) of RCRA defines "solid waste" to exclude any discharge of waste authorized by a NPDES permit from the requirement for a RCRA permit. Therefore, if the Army prevails in its position, such discharges of hazardous wastes authorized by section 402 would be exempt from the stringent disposal requirements of RCRA. However, such dischargers might still need a RCRA permit for treatment, storage, or transport of these materials. This could lead to confusion on the part of the operator, who would be unsure as to which activities are covered by which permit. The confusion could be avoided if a 404 permit was required for these discharges, since then a RCRA permit could be issued to cover the entire range of RCRA-related activities at the site.

CHAFEE

TECHNOLOGY-BASED STANDARDS

QUESTION: Mr. Jensen, I am sure you are familiar with the structure of the Clean Water Act. In many respects it is one of our best-designed environmental statutes. The reason for this is because it is technology-based--that is to say controls to remove pollutants are not based on water quality but on the best technology available.

Now there have been some who have argued that controls should be based on water quality. That proposal has been rejected time and again by this Committee and the Congress--most recently in legislation passed by the Senate, and in 1983, when the EPA pulled back proposed changes to water quality regulations (at the behest of this Committee) and reaffirmed its commitment to the statutory scheme of the law.

- How do you feel about this?
- Do you support the best-technology approach even though impacts on water quality may not be readily definable?
- Do you support the water quality standards regulation promulgated by the EPA in 1983, particularly the anti-degradation and standards downgrading policies, embodied in those regulations?

ANSWER: Nationally uniform standards of point source pollution control are the essential basis of EPA's efforts to clean up the Nation's waters. Progressive (staged) improvement of treatment through application of BPT and then BAT for industrial dischargers and secondary treatment for municipal dischargers is the cornerstone of the Act. Applying these levels of treatment uniformly across industries and States without relying on local water quality is equitable, environmentally sound and, by definition, economically achievable. The Agency is currently studying additional industries that may warrant national regulation.

Even in those cases where technology-based controls do not result in "readily definable" improvements, applying these controls is consistent with the goals of the Act to continue making progress toward eliminating the discharge of pollutants. However, in other cases where installation of technology-based controls is not sufficient to meet local water quality standards, it may be necessary to go beyond BAT using more stringent water quality-based controls. It should be clear, though, that the technology-based standards are the minimum (floor) of treatment. Water quality-based controls are used for site-specific improvements past the minimum.

I am strongly committed to EPA's revised Water Quality Standards Regulation which reaffirms the Agency's commitment to the fishable/swimmable goals of the Act and to a strong antidegradation policy. EPA's antidegradation policy states that existing instream uses and the water quality necessary to protect those uses must be maintained and protected. The Agency has shown its commitment to improving water quality through the new regulation by working with the States to implement the regulation through guidance and technical assistance.

SENATOR BENTSEN

OCEAN INCINERATION

QUESTION: As you know, ocean incineration has been and will continue to be a contentious issue. Can you assure me that you will work closely with the members of this Committee and interested groups and citizens on this issue so that we can continue to make progress on this important matter? In what ways will you be interacting with this Committee and the public as you proceed with promulgating final regulations and begin the permitting process for research and operating permits?

ANSWER: There has been substantial public and Congressional interaction on the issue of incineration of hazardous wastes at sea and I intend to continue this information sharing. The Agency has granted the public and Congress opportunity for extensive involvement in the design of the ocean incineration program. The public participated in workshops to structure both the regulation and the research strategy. In addition, the Agency held numerous informational briefings around the country as well as five public hearings on the regulation. We are committed to having the public and Congress assist the Agency in developing an environmentally sound, administratively efficient approach that can be supported by the American public.

The public and the Congress will be notified at several points as we proceed with promulgation of the final regulations. After further study of key issues, the Agency will respond to the public comments on the proposed rule. We also plan to publish the preliminary results of any research burns, which may be conducted. The final regulation will be published in the Federal Register.

The process for approval of research permits is currently being discussed within the Agency.

Senator Bentsen

OCEAN INCINERATION

QUESTION: The Agency proposed ocean incineration regulations in February of this year. What is the current schedule for final action on these regulations?

ANSWER: The ocean incineration regulation is a complex rule that will include criteria and standards for evaluating permit applications, for conducting ocean incineration activities, and for designating and managing ocean incineration sites. Many activities must be completed before final promulgation. In addition to responding to public comments on the proposal, an important issue is that the Agency must review and evaluate the results expected from ongoing research activities.

The schedule for preparing the regulation is under review internally. Promulgation is currently expected in the summer of 1986.

QUESTION FROM SENATOR BENTSEN FOR LARRY JENSEN

QUESTION: Following two days of Committee hearings on this subject (ocean incineration) I submitted 17 pages of questions to the Agency, requesting responses by August 23, 1985. As yet, those responses have not been received. If there is a problem in transmitting the responses which I understand have been complete for some time, please advise me.

ANSWER: The questions that you submitted were also accompanied by questions from Senators Biden and Lautenberg. Several of these 145 questions and responses contained policy and budget implications regarding the incineration-at-sea program. With this in mind, the Agency forwarded them to the Office of Management and Budget for their review on September 11, 1985. OMB has indicated that its review will be complete this week.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 1A) Your predecessor, Jack Ravan, said in a hearing before this committee that his goal was to end ocean dumping of sewage sludge. Do you share that goal?

A. The Ocean Dumping Act requires EPA to prevent or strictly limit the dumping into ocean waters of any material, including sewage sludge, which would adversely affect human health, welfare, or amenities, or the marine environment, ecological system or economic potentialities.

Sludge dumping would only be allowed if it can be demonstrated that no practicable alternatives are available that have less impact on the total environment. If dumping must occur, it would be restricted from the near-shore environment and areas of high ecological importance.

The long-range goal for sludge is to actively encourage beneficial uses of sludge, to promote efforts to get toxics out of the sludge, and to require ocean disposers to continue to search for better alternatives.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

A. 1B) Do you believe the Boston application to dump sewage sludge off New Jersey is consistent with that goal?

A. The Boston application has not been received, although we expect it soon.

It is one of EPA's highest priorities to protect our near-shore coastal environment.

EPA is currently working with the Massachusetts Water Resoures Authority to plan construction needed to improve wastewater treatment by the City of Boston and to eliminate the discharge of wastes to Boston Harbor. Near-term and long-range sludge management is an essential part of these plans.

Boston is currently developing a long-range sludge management plan directed at reuse, recycling, and minimizing the toxics entering the sludge. Boston is also reviewing several short-range alternatives in addition to ocean dumping. These include a pilot composting facility, joint use of existing incinerators, and landfilling. As we consider the application, we will give particular attention as to the availability and impacts of these alternatives to ocean dumping.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 1C) If you issue a permit to Boston to ocean dump sewage sludge, won't you be opening the door to other cities having sludge disposal problems to view the ocean as an option for disposing of sludge?

A. Any applications to dump sludge, including Boston's must be evaluated on their own merits to determine compliance with the Ocean Dumping Act's requirements. Because each application must be reviewed on a case-by-case basis, I do not view a particular decision as setting a precedent for other applications. In addition, Boston is one of a very few municipalities disposing of sludge into the ocean. Because the vast majority of municipalities currently have available and are implementing land-based alternatives, any possible precedential value of the Boston application is limited.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 1D) I understand that the acting head of the Massachusetts Water Resources Authority said that the Authority voted to apply for an ocean dumping permit because ocean dumping could be accomplished quickly. Do you think that is an adequate basis for granting a permit?

A. No. As noted above, the Agency is giving highest priority to eliminating sludge discharges in the near-shore coastal environment as was the case in phasing out the "12" mile sludge site off New Jersey and attendant designation of the 106-Mile Site.

Boston is concurrently looking at several options to sludge disposal in both the near-term and as a long-range solution. Ocean dumping is one option which could be accomplished in a short time-frame. However, Boston is also reviewing upgrading their pilot composting program, using existing incinerators and several other options. The Agency would carefully consider the availability and impacts of practicable alternatives to dumping before arriving at a decision on their application.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 1E) How long has Boston been disposing of its sludge in the Harbor?

A. Sewage sludge from both the Deer Island and Nut Island treatment plants is currently discharged into President Roads, the principal navigational channel to Boston Harbor, during outgoing tides. Sewage sludge has been discharged through the present outfall configuration since 1952 and 1968 for the Nut Island and Deer Island facilities, respectively.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 1F) How toxic is Boston sludge?

A. The results of a solid phase sewage sludge assessment performed as part of the Boston Wastewater Management Update Report in 1981 evaluated survival of marine organisms exposed to sludge and the potential of chemical constituents to accumulate in the human food web. In the first part of the study, the total combined survival of the marine organisms is 59.4 percent and 93.4 percent in undiluted sludges from the Deer Island and Nut Island treatment facilities, respectively. In the second part of the study, eleven percent of the data show that the mean concentrations of chemical constituents in the tissues of organisms exposed to sewage sludge were greater than that found in control animals. However, no information has been provided to EPA with regard to the toxicity of these sludges after initial mixing. With the subsequent implementation of an effective industrial pretreatment program, which was approved on July 20, 1982, by our Regional office, the toxicity of Boston's sludge should be reduced. Prior to allowing ocean disposal of Boston's sludge, the Agency will carefully evaluate the sludge's compliance with the Ocean Dumping Criteria.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 2A. Boston is proposing to barge its sludge over three hundred miles to the 106-Mile Site off New Jersey. If Boston is allowed to ocean dump its sewage sludge, why can't EPA designate a dumpsite close to Boston?

A. The selection of the "106" site was based upon several years of study including an Environmental Impact Statement and numerous hearings prior to designation. The site was selected upon its scientific merits including physical dynamics allowing for dilution and dispersion, wave and current movement away from sensitive shore areas, and biological minimization of critical ecological resources.

Selection of another sludge site for Boston may not be in the best interest of the public. Locating another site with equal or better attributes for disposal than the "106" would be difficult, time-consuming, and expensive. Further, as currently proposed, Boston's sludge would only make up approximately seven percent of the sludge currently projected from New York and New Jersey at the "106" site. However, during analysis of alternatives, careful consideration would be given to the use of a site nearer to Boston.

QUESTIONS FROM SENATOR LAUTENBERG FOR LARRY JENSEN

Q. 2B. Why should the New Jersey marine environment have to absorb the adverse effects of sludge generated hundreds of miles away?

A. Concerning the absorption of wastes from other States, the "106" site is not in State waters but located over one-hundred miles at sea. This site was selected in part due to a determination that wastes would not reenter near-shore waters. EPA has a responsibility to assure all the coastal States that this site would not present any adverse impacts.

EPA meetings with OMB on Phase II RMCL proposal

Meetings took place on the following dates between EPA staff and OMB staff on the "Phase II" drinking water RMCL proposal:

April 8, 1985
April 18
April 22
April 26
June 5
June 21
June 26
July 9
July 15
July 18
July 23
July 26
August 5

The following EPA employees participated in one or more of these meetings:

Henry Longest
Victor Kimm
Arnold Kuzmack
Joseph Cotruvo
Craig Vogt
David Schnare
Carl Kessler
Michael Cook
James Lounsbury
Jack Campbell
Robert Rauscher
John Davidson

No written corrspondence occurred between EPA and OMB on this subject.

Senator STAFFORD. The final nominee this morning will be Mr. Orson G. Swindle, nominated by the President to be Assistant Secretary of Commerce for Economic Development. Mr. Swindle is accompanied by our friend and colleague, Senator Denton, and I will say for the record before Senator Denton begins that retired Navy captains are always impressed when retired Navy admirals come to a meeting. So, Admiral and Senator, we are very glad you are here and we would be glad to hear from you with respect to Mr. Swindle.

STATEMENT OF HON. JEREMIAH DENTON, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator DENTON. Thank you, Mr. Chairman and members of the committee.

It is an honor for me to introduce Mr. Orson Swindle as President Reagan's nominee for Assistance Secretary of Commerce for Economic Development. The chairman mentioned service and rank. I first came to know Orson Swindle when he was a major in the U.S. Marine Corps in a place called the Hanoi Hilton and, since then, have kept in close touch with him. While he was performing his somewhat arduous duties in North Vietnam prisons, he impressed me as one of his superiors and all of his compatriots in that environment by his tremendous strength, his character, his intelligence, and his determination.

So, I hope, Mr. Chairman, you will be prejudiced in favor of a marine who eventually served 20 years in the Corps and retired as a lieutenant colonel.

As you all might know, Orson is currently Georgia State director for the Farmers Home Administration, and I have a special insight into his performance in that very demanding assignment. It so happens that in Alabama, my own appointee to that job was Mr. Dale Richie, who happened to be a major in the U.S. Special Forces and, like Colonel Swindle, much decorated for service in Vietnam. Mr. Richie and Mr. Swindle, being in neighboring States and of somewhat similar backgrounds, came to know one another and be aware of one another's performance in their respective corresponding duties. They collaborated on a number of matters of mutual concern to them, and Dale Richie is, like me, a great admirer of Colonel Swindle.

So, he has already performed extremely well in one important assignment, and now we are looking to his appointment at EDA. That is of relevance to my own senatorial outlook as well as to my own personal feelings regarding his qualifications.

As you all know, although the nation has experienced considerable economic recovery, Alabama has lagged. It has been beleaguered with a relatively high unemployment rate compared to the rest of the Nation. We are starting to pull out of it there, but in trying to help with that problem from the Senate, I have worked to try to alleviate the unemployment situation, diligently tried to support efforts in Congress to promote a health economic climate for Alabama business and industry. That work with my colleagues here today has involved reducing taxes, lessening the burden of

Government regulation, reducing the growth of Federal spending, and reducing the deficit.

But the Economic Development Administration has played a role in the economic recovery of my State. I look upon the prospective appointment of this gentleman as a major step in helping economic growth in my own State and throughout our Nation.

EDA has helped to put new life into communities that are located along the Tennessee-Tombigbee Waterway, for example, communities that want to take advantage of the tremendous opportunities the Ten-Tom offers. EDA's efforts have and will continue to greatly enhance their chances for economic survival and growth while the waterway reaches its full potential. EDA has also provided assistance to all the rest of Alabama.

My bottom line is that it is my belief that Orson Swindle, my friend, a man whom I greatly admire whose characteristics apply to any situation in which you can place him, a man who is respected by everyone who has ever known him, who works smoothly and well with his colleagues, I believe that his appointment will significantly strengthen and improve the role that EDA plays in this Nation.

Senator STAFFORD. Thank you very much, Senator Denton. What you say will impress this committee. It does its chairman, and we appreciate your being here with the nominee. We know how busy you are. You are invited to stay if you wish, but it is understood if you have other duties you need to take care of.

Senator DENTON. Well, I will stay while Orson makes his own statement.

Senator STAFFORD. Mr. Swindle, before we hear your statement, I am going to place in the record statements, with respect to your nomination, of Senator Gordon Humphrey of New Hampshire, Senator George Mitchell of Maine, Senator Bentsen of Texas, Senator Lautenberg of New Jersey, and Congressman John McCain who certainly bears a famous Navy name from Arizona. Without objection, they will appear at this point in the record, and I have a brief statement I would like to make.

[The statements referred to follow:]

STATEMENT OF SENATOR GORDON J. HUMPHREY
ON THE NOMINATION OF ORSON G. SWINDLE, III
TO BE ASSISTANT SECRETARY OF COMMERCE
FOR ECONOMIC DEVELOPMENT
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

MR. CHAIRMAN, I HAVE REVIEWED THE RECORD AND BACKGROUND OF MR. SWINDLE, AND IT APPEARS THAT HE HAS SERVED THIS NATION HONORABLY AND WELL. I ONLY WISH I COULD SAY THE SAME THING FOR THE AGENCY WHICH HE HAS BEEN NOMINATED TO HEAD.

IT HAS BEEN MY DETERMINATION THAT THE ECONOMIC DEVELOPMENT ADMINISTRATION HAS STRAYED SO FAR OFF ITS ORIGINAL COURSE SO AS TO RENDER ITS CONTINUED UTILITY IN FULFILLING ITS MISSION UNDER THE LAW VIRTUALLY NIL. CREATED IN 1965, THE ECONOMIC DEVELOPMENT ADMINISTRATION WAS DESIGNED TO ASSIST AREAS OF SUBSTANTIAL AND PERSISTENT UNEMPLOYMENT AND UNDEREMPLOYMENT. THE ORIGINAL ACT WAS DESIGNED TO HELP THESE AREAS HELP THEMSELVES ACHIEVE LASTING IMPROVEMENTS BY ESTABLISHING STABLE AND DIVERSIFIED ECONOMIES. CRITICS OF THE AGENCY CHARGE THAT IT HAS BEEN LESS THAN EFFECTIVE IN CREATING TRUE ECONOMIC DEVELOPMENT, AND HAS RATHER DEGENERATED INTO A VIRTUALLY USELESS PORK BARREL PROGRAM. CONSIDER, FOR INSTANCE, THE FACT THAT WHEN EDA WAS FIRST ESTABLISHED, SOME 12 PERCENT OF THE COUNTRY QUALIFIED FOR ASSISTANCE AS "ECONOMICALLY DISTRESSED." TODAY, THAT NUMBER IS 85 PERCENT AND INCLUDES SOME OF THE NATION'S WEALTHIEST COMMUNITIES. THE HORROR STORIES OF THE PROJECTS WHICH HAVE BEEN AWARDED EDA ASSISTANCE HAVE BEEN DOCUMENTED ELSEWHERE AND WE NEED NOT REVISIT THEM HERE. MOREOVER, THE PROBLEMS ASSOCIATED WITH THE EDA LOAN PROGRAM HAVE BECOME A WELL KNOWN EXAMPLE OF ABUSE AND MISMANAGEMENT.

AS MEMBERS OF THIS COMMITTEE KNOW WELL, PRESIDENT REAGAN SOUGHT THIS YEAR, AS HE HAS IN YEARS PAST TO DO AWAY WITH EDA. HIS BUDGET PROPOSAL INCLUDED NO FUNDS FOR THE AGENCY. AS CHAIRMAN OF THE SUBCOMMITTEE ON REGIONAL AND COMMUNITY DEVELOPMENT, WHICH HAS JURISDICTION OVER EDA, I AGREED WITH THIS INITIATIVE AND I SUPPORTED IT STRONGLY. HOWEVER, IT HAS SINCE BECOME READILY APPARENT THAT THE CONGRESS OF THE UNITED STATES DOES NOT AGREE WITH THE PRESIDENT ON THIS MATTER. INDEED, OVER THE PAST SEVERAL MONTHS, IT APPEARS THAT CONGRESS HAS REACHED A DETERMINATION THAT THE PROGRAMS ADMINISTERED BY THE ECONOMIC DEVELOPMENT ADMINISTRATION ARE WORTHWHILE, EVEN IN THIS PERIOD OF EXTRAORDINARY FISCAL UNCERTAINTY.

WHILE I DO NOT AGREE WITH THIS CONCLUSION, I ACCEPT IT. AS WE LOOK TO EDA'S FUTURE, HOWEVER, I BELIEVE IT IS IMPORTANT FOR THIS COMMITTEE TO DO ALL IT CAN TO ENSURE THAT TAXPAYER DOLLARS WHICH ARE BEING SPENT BY EDA ARE SPENT AS EFFICIENTLY AND EFFECTIVELY AS POSSIBLE. AS I HAVE INDICATED, THERE ARE A NUMBER OF AREAS WHICH ARE RIPE FOR MAJOR IMPROVEMENTS. SPECIFICALLY, WE SIMPLY MUST RESTORE THE NOTION OF ECONOMIC DISTRESS AS ORIGINALLY ENVISIONED BY ENACTING LEGISLATION. FUNDS SPENT BY EDA MUST BE TARGETED CAREFULLY TO THOSE AREAS WHICH ARE INDEED IN NEED OF ASSISTANCE. FURTHER, SOMETHING HAS TO BE DONE ABOUT THE ABYSMAL RECORD OF DEFAULT IN EDA'S LOAN PROGRAMS. I WOULD SOLICIT MR. SWINDLE'S THOUGHTS ON THESE MATTERS AND I LOOK FORWARD TO WORKING WITH HIM AND OTHER MEMBERS OF THE COMMITTEE TO RESOLVE SOME OF THESE ISSUES IN THE FUTURE.

MR. CHAIRMAN, THE TASK FACING MR. SWINDLE IS NOT EASY. HE HAS BEEN ASKED BY THE PRESIDENT TO TAKE OVER AN AGENCY WHICH HAS BEEN ORPHANED BY THE ADMINISTRATION AND BULLIED BY THE CONGRESS. I LOOK FORWARD TO WORKING WITH HIM IN THIS DIFFICULT TASK.

STATEMENT OF SENATOR LLOYD BENTSEN
FULL COMMITTEE NOMINATION HEARING ON
ORSON G. SWINDLE III TO BE ASSISTANT SECRETARY
OF COMMERCE FOR ECONOMIC DEVELOPMENT
U.S. DEPARTMENT OF COMMERCE

SEPTEMBER 27, 1985

The Committee on Environment and Public Works is meeting today to hear testimony on three individuals nominated by the President to important posts in government. One of these is Orson G. Swindle, named to be Assistant Secretary of Commerce for Economic Development in the U. S. Department of Commerce. I have certain concerns with regard to Mr. Swindle which I would like to make known in the course of this hearing.

I have been a strong supporter of the Economic Development Administration. For nearly twenty years this agency has provided both monetary and technical assistance to economically depressed areas in every State of the Union. Such assistance has been in the form of public works grants, business loans, economic adjustment grants, and planning and research grants. Between fiscal years 1966 and 1984, the State of Texas received $382 million in economic assistance from this agency. Over $12.6 billion has been expended or obligated in that same period throughout the nation.

The present Administration wishes to terminate the Economic Development Agency as a part of its policy of placing greater emphasis on the private sector and transferring primary responsibility for administering community and economic development assistance to States and local governments. The President has tried to terminate this agency repeatedly, but the Congress has continued to fund it. In FY 1984, Congress appropriated $267.5 million, and in FY 1985, $200 million. For the coming fiscal year 1986, the House has passed an appropriations bill containing $206 million for EDA, and the Senate will probably approve a similar amount.

I do not expect that Mr. Swindle be an advocate of the continuation of the Economic Development Administration. If he were, he would obviously not have been nominated. But I would like to know Mr. Swindle's intentions in the likely event of continued Congressional support of the program, possibly in the neighborhood of $200 million annually.

Mr. Swindle paid me a courtesy call prior to this hearing, and I explored this question with him. He assured me that, should EDA be funded by the Congress, he would fulfill his responsibilities as administrator in response to that mandate. I want Mr. Swindle to know that, while I intend to vote in favor of his nomination, I will be monitoring the activities of EDA very closely, in order to ensure the continued viability of this important program.

In closing, I would like to observe that I am not unaware of problems with the EDA program. I agree with some critics that the scope of the program -- the large percentage of the country that is technically eligible for EDA assistance -- is open to question. This Committee has acted in the past to remedy this situation, passing legislation addressing this and other problem areas. I do not agree that the Economic Development Administration should be phased out, and I am more than willing to work with the Chairman and other members of the Committee in developing remedial legislation once again.

George Mitchell

STATEMENT OF
SENATOR GEORGE J. MITCHELL

ENVIRONMENT AND PUBLIC WORKS COMMITTEE
NOMINATION HEARING
SEPTEMBER 27, 1985

ORSON G. SWINDLE
ASSISTANT SECRETARY OF COMMERCE

LAWRENCE J. JENSEN
ASSISTANT ADMINISTRATOR OF THE EPA

JENNIFER JOY MANSON
ASSISTANT ADMINISTRATOR OF EPA

Mr. Chairman, I would like to welcome the nominees appearing before the Committee today.

Ms. Manson and Mr. Jensen are nominated to be Assistant Administrators of the Environmental Protection Agency. Both of these individuals appear to be well qualified and I am confident that they will provide valuable leadership at the Agency.

Mr. Swindle is nominated as Assistant Secretary of Commerce for Economic Development. Mr. Swindle, if you are confirmed, and I expect you will be, I believe you will find administering the Economic Development Administration to be a difficult task.

For the past four years, the Administration has proposed the elimination of the Agency. Congress, on the other hand, has rejected attempts to kill EDA, recognizing that local pockets of unemployment and economic stagnation exist which need specialized, targeted aid which EDA can provide. In spite of the Administration's position, you must carry out the will of Congress and administer the EDA's programs to the best of your abilities.

I am a strong supporter of EDA. No matter how successful national economic policies may be in stimulating overall economic growth and reducing inflation and unemployment, important structural problems will remain. Many of our nation's rural communities and multi-state regions will still be experiencing unemployment, lagging economic growth, industrial decline, and underutilized production facilities and resources. EDA represents an effort to correct those disparities.

EDA is directly responsible for creating and saving thousands of jobs in Maine. In a State with chronic unemployment problems and an economy aggravated by high energy costs, that is a substantial contribution. Many Maine communities do not have the indigenous resources to attract substantial private investment. EDA has provided that seed money.

Mr. Swindle, the President does not share my belief in the value of the EDA. You face the difficult responsibility to balance your loyalty to the Administration of which you are a part and the President who appoints you, and the law which you will swear to uphold and administer. I wish you much success in that effort.

STATEMENT OF SENATOR FRANK LAUTENBERG
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
NOMINATION HEARING ON ORSON G. SWINDLE III TO BE
ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

SEPTEMBER 27, 1985

This morning the Committee on Environment and Public Works considers the nomination of Orson G. Swindle to be Assistant Secretary of Commerce for Economic Development.

The Economic Development Administration was established by this Committee in 1965, and has been in operation for nearly twenty years. Over that period it has provided over $12.5 billion dollars in grants and technical assistance. Recipients of this assistance include local government units, Indian tribes, private lending institutions, universities, and other entities. Money and technical assistance have been provided to spur economic growth in areas of high unemployment, and planning grants have assisted non-Federal government entities in undertaking and maintaining economic development planning processes.

I believe this is a legitimate role for Federal government -- to lend a hand in assisting communities to plan and carry out program to attract capital investment and to create jobs. The Economic Development Administration program has provided much needed assistance to many communities in New Jersey and across the nation.

There are those, including the President, who believe that this program should be phased out. They believe the States and the private sector should undertake economic development assistance. I am not sure that this would work in many areas. I would like to keep an open mind, and since it appears that the Congress will continue to fund the EDA program in the coming fiscal year, I would like the assurance of Mr. Swindle that he will carry out the mandate of the Congress in this respect.

I met with Mr. Swindle yesterday in my office, and we discussed his view of his responsibilities as the head of this program. I was somewhat reassured by his stated intention to administer EDA in conformance with the will of the Congress. I am sure we will be touching on this subject in the course of the hearing this morning.

JOHN McCAIN
FIRST DISTRICT ARIZONA

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS

COMMITTEE ON EDUCATION
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September 20, 1985

The Honorable Robert T. Stafford
Chairman
Senate Committee on Environment
  and Public Works
SD-410
Washington, D.C. 20515

Dear Chairman Stafford:

I would like to take this opportunity to extend my strongest recommendation possible to Orson Swindle for the position of Assistant Secretary of Commerce for Economic Development.

I have been personally acquainted with Mr. Swindle for nearly eighteen years. I know that he had a most distinguished career in the United State Marine Corps, retiring in 1979 as a Lieutenant Colonel. I can personally attest to the fact that he performed his duty in a most competent and professional fashion, occasionally under extremely difficult circumstances. Following his military service, Mr. Swindle served in the capacity of Director for the State of Georgia of the Farmers' Home Administration, a position he presently occupies.

I believe Mr. Swindle would bring to the Assistant Secretary's position the same dedication and competence he has so amply displayed in the past. I have no doubt that he would bring to this job the same heroic demeanor that characterized his military career. I could not recommend someone more highly than I do Orson Swindle.

Thank you for this opportunity to express my views.

Sincerely,

John McCain

John McCain
Member of Congress

JM/jt

Senator Stafford. On behalf of the committee, I am pleased to welcome you here as the nominee to be the Assistant Secretary of Commerce for Economic Development.

As you are well aware, the Assistant Secretary is responsible for the domestic economic development activities of the Department of Commerce and heads the Department's Economic Development Administration, better known to all of us as EDA. The purpose of this hearing is to have an opportunity to discuss the nomination.

EDA was established 20 years ago as a small, rural oriented agency. Over the years, its budget has multiplied and its mission has repeatedly changed. We reached a point, in fact, where 85 percent of the Nation qualified to be taken care of, in part, by EDA. The program has not been authorized since 1981, although funding has been appropriated on a reduced scale every year since then.

This presents a rather difficult assignment for you, Mr. Swindle. In fact, I am not sure whether you might be described as an undertaker or a caretaker for the agency since I presume this committee or some members of it will continue to attempt to terminate EDA's existence, and other Members of the Senate and the House may continue to find ways to keep it alive.

In any event, so long as it endures, it must be capably administered and responsive to a variety of interests, including economic development specialists; grant applications and recipients; Federal, State, and local governments; the private sector; and, of course, the Congress.

Let me conclude these remarks by encouraging you, Mr. Swindle, if you are confirmed in this position, to consult closely with this committee as you proceed in carrying out your considerable responsibilities as Assistant Secretary of Commerce for Economic Development.

At this point, unless Senator Durenberger has any statement, we would be glad to hear yours.

STATEMENT OF ORSON G. SWINDLE III, NOMINATED TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

Mr. Swindle. Thank you, Senator Stafford.

Mr. Chairman and members of the committee and committee staff members, good morning and thank you for the courtesy of this hearing as well as my recent visits with a number of you. Having spent a lifetime in the service of our country, I would also like to express my appreciation to our President for having allowed me to continue this extraordinary privilege in my current capacity of State director of the Farmers Home Administration in Georgia. It has been an honor for me to serve President Reagan, our country, and my native State these past 4 years. I am further honored by our President by his nomination of me for this position of leadership within the Department of Commerce.

I understand the concerns of the administration, the members of the committee, and Congress over the future of the Economic Development Administration. In meeting with several members of this committee recently, the question of my willingness to administer the programs of EDA was raised in view of the administration's position on the Agency and my obvious loyalty to the President and his goals for our country. I am confident the record will show that I have a distinguished career of service to our country, its people, and its laws.

Perhaps one of our greatest strengths as a nation rests in the process of public and legislative debate of issues by countervailing forces or interests within our free society. I seldom have doubts as to the motives of the debating parties when it comes to our country. For the most part, I believe all want the best for our country and our people.

We present our views, thank God, in a forum of verbal debate rather than through the barrels or blades of weaponry. Once the shouting is over, we, for the most part, arrive at consensus directions and set our course.

While I might wholeheartedly agree with one side or the other on a given issue, once a decision is reached as to that course, rest assured I will perform my duties to my country first and foremost. Should I believe to do so would violate my values or personal code of conduct, you may also rest assured that I will step aside and pursue another course, independent of my previous responsibilities, to achieve those objectives in which I might so strongly believe.

I am no stranger to controversy, the functioning of government, the politics of special interests and philosophical views, nor the pressures resulting from those environments. The past 4 years I have spent as State director of the Farmers Home Administration represent perhaps the toughest job I have ever had, including 6½ years of remote tour in Hanoi. I am quite familiar with the seemingly unlimited desires of special interest groups and, more recently, those seeking political gain.

Leadership and decisionmaking under very difficult circumstances have been my forte. Past challenges have been met with enthusiasm, intense involvement, dedication, courage, and invariably have been concluded with major successes. My professional background has been one of leadership. I am people oriented in my management style and accustomed to difficult tasks, working with limited resources, pressure, and often, a somewhat demoralized organization.

More importantly, I believe, is the fact that I have intimate knowledge of local economic difficulties of rural America. Under President Reagan's leadership and programs, we have seen remarkable improvements in the economic well-being of our country. Unfortunately, rural America, as Senator Denton has mentioned, has not yet realized this new prosperity. My own organization has played a major role in rural development. Many aspects of FmHA and EDA programs are quite similar. I believe my vast experience working with the economically stressed rural areas of Georgia give me a unique insight into what government can and cannot accomplish with economic or financial assistance programs.

All of this is not to say that EDA should have no role in our urban areas which it clearly does. It is important, though, with the Agency's limited resources that EDA's dollars are finely targeted to the most depressed areas of our Nation's cities.

I am too familiar with the tragic consequences of government programs that have run rampant, been poorly managed, and been politically abused to satisfy political or special interest group demands. I am also acutely familiar with the good that can be achieved through well managed and well-thought-out government assistance programs. Having been exposed to the former and having conducted the latter, I can say without reservation that I prefer the latter. I believe our citizens who need assistance and our citizens who foot the bill for these enormous government expenditures deserve nothing less than professional, honest, fair, and competent managers prudently administering well justified and affordable programs.

In summary, I believe my experience with government in demanding leadership roles, particularly as related to the mission of EDA, my experience dealing with intense pressure-filled circumstances, and my dedicated and successful professional career in service to our country make me qualified for this position. I welcome the challenge as well as the responsibility.

Should I be confirmed, Mr. Chairman, I look forward to the opportunity of working with you and the committee members as we endeavor to bring about more effective and responsible government for the people of our country. I truly believe our people honor us by allowing us to serve them.

I would most happy to answer any questions of the committee. I have not yet worked within EDA, by personal choice. Questions with which I may be unfamiliar will be answered, with your permission, in writing later.

Thank you, sir.

Senator STAFFORD. Thank you, Mr. Swindle.

Senator DENTON. If you will excuse me, Mr. Chairman. Thank you for the time.

Senator STAFFORD. Certainly. Thank you for coming, Senator.

Mr. Swindle, if you are confirmed, are you prepared to willingly appear in front of any committee of the Congress that asks you to come as a witness?

Mr. SWINDLE. Willingly, and it would be an honor, sir.

Senator STAFFORD. Do you know of any business relation you may have or any personal holdings that you might own that would put you in a conflict of interest position if you are confirmed in this position?

Mr. SWINDLE. No, sir.

Senator STAFFORD. I have three questions here which, if you wish, you may answer in writing or here, whichever you prefer. The first one is, how will you seek to balance the administration's views on EDA which call for its abolition, as do some members of this committee, and the continued will of Congress to retain the agency?

Mr. SWINDLE. Senator, we personally discussed this very question, and I have discussed it also with other members of the committee. I think, as I mentioned in my statement, we have a very blessed system here that allows us to voice our differences. Once we finish voicing those opinions and differences and we make this consensus decision and start moving in that direction, I think it is merely a matter of implementing the laws of this country. I don't think President Reagan for 1 minute would dream of violating those laws nor would I. I can assure you I can follow orders, sir.

Senator STAFFORD. I would assume that as long as EDA has a mission and some money and you are its Administrator, you would expect to carry out the law.

Mr. SWINDLE. Absolutely, sir.

Senator STAFFORD. I will say, before I ask this question, that when EDA started, it was intended to be a small rural program. Somehow, it lost much of that orientation as it expanded through the years that I have been on this committee until, as I said, 85 percent of the Nation at one time during the Carter years was qualified to apply for EDA grants.

How much of a rural orientation do you think EDA should have today?

Mr. SWINDLE. Well, sir, it is my understanding, and I don't have a lot of information on EDA, that it is about a 60–40 split now, with the programs, 60 percent being rural. I think that is a question that would have to be answered after a thorough analysis of the needs. We have limited resources. We have many demands, and I think some demands, obviously, are very legitimate and very high priority. Others are not. It would seem to me that the best way to come to that conclusion is to make a thorough analysis of those demands and apply them against the limited resources.

Senator STAFFORD. Assuming a 60–40 split is indicated, you would, I assume, carry out the program on that basis?

Mr. SWINDLE. Yes, sir.

Senator STAFFORD. Do you have any particular view you would care to state as to the primary mission of EDA at the present time?

Mr. SWINDLE. No, sir. I am familiar with the way it is stated in the regulations and laws, and I take no exception to that. I think we do need to be more definitive as to where the real needs are and not waste limited resources in areas where they could be better put.

Senator STAFFORD. All right, sir. Thank you very much. I will reserve to other members who can't be here the right to submit a question or two in writing to you, if that is agreeable. Is that agreeable, Mr. Swindle?

Mr. SWINDLE. Yes, sir.

Senator STAFFORD. All right. If you get any, answer them as soon as you can so we can get your nomination up in front of the Senate as speedily as possible.

Mr. SWINDLE. Yes, sir.

Senator STAFFORD. Thank you for appearing.

Mr. SWINDLE. Thank you, sir.

Senator STAFFORD. Since there is no further business today, the committee stands adjourned.

[Whereupon, at 11:30 a.m., the committee recessed, to reconvene subject to the call of the Chair.]

[Mr. Swindle's résumé, responses to a committee questionnaire, and questions from Senator Lautenberg follow:]

Orson G. Swindle III (Athens, Georgia)	Assistant Secretary of the Economic Development Administration, Department of Commerce
1981 - present	U.S. Department of Agriculture Farmers Home Administration, State Director
	Farmers Home Administration, Georgia State Director, Department cf Agriculture

fR

Orson G. Swindle, III, 252 Eaglewood Court, Athens, Georgia
Phone: (404)-546-216[illegible] - Work; (404)-546-6941 - Home
(2)

✓

July 1983

Summary of Qualifications

Advanced degree and extensive experience in financial management. Experienced in management of personnel, engineering, construction, utilities, logistics, motor transport and supply support operations. Goal-accomplishment oriented. Proven ability to adapt to changing circumstances and requirements for acquiring new skills rapidly. Adept at problem solving and extensive experience in successfully coping with numerous complex situations occurring simultaneously. Considerable experience in the many facets of personnel management, human relations and labor-management relations. Long term association with business, political, military, religious, and education leadership in Georgia. Wide range of media exposure and public speaking experience.

Experience

Financial Management

Since June 1981 White House appointment as State Director of the Farmers Home Administration (FmHA) within the U. S. Department of Agriculture, have directed that federal agency's lending programs in Georgia. The agency, a congressionally established "lender of last resort", provides government loans and grants for farming, rural community development, and low-to-moderate income rural housing. The Reagan Administration inherited an FmHA with excessively liberal, imprudent and politically influenced lending practices with little concern or effort toward the debt servicing and collection aspects of a sound lending program. As State Director, accomplishments include an on-going implementation of extensive financial management and procedure training of over 300 employees in 65 offices over the state; reorganization, improved and more effective staffing; substantial reduction in rural housing loan delinquencies through intense collection efforts; more effective use of all allocated resources; higher quality management, more realistic loan making and dramatically reduced losses of taxpayer dollars through improved lending practices. (2 years)

Extensive experience in directing the comptrollership of a major military logistics installation managing a work force of 200 men and women --- planning, budgeting and managing budget execution in operations, major industrial overhaul and repair, and inventory. Budgets annually exceed $100 million. Proficient in budgeting analysis and techniques including Zero Base Budgeting. Thoroughly knowledgeable in various accounting systems, automated data processing and management information systems from an executive perspective. Established comprehensive internal review (audit) program for major military logistics command. (4½ years)

General Management

General manager for industrial-commercial construction company. Made major contributions to this sole-proprietorship operation through reductions in overhead costs, successfully recruiting and filling critical vacancies on staff; and mechanized management and accounting systems. (1 year)

Considerable experience in management of projects encompassing engineering, construction, fuel operations and utilities applications. Work forces under supervision ranged in size from 50 to 200 men involved in project planning, design, execution of plans and continuous operations. (4½ years)

Managed inventory and supply support efforts for aviation operations on two separate occasions requiring working knowledge of inventory systems and management techniques. (1½ years)

Outstanding reputation for leadership regardless of position held or task assigned.

Staff and Personnel Administration

Thoroughly experienced in the management of organizational staff and personnel functions. Proficient in developing, writing and implementing personnel and operating policies and procedures. Experienced with union-related personnel situations. Considerable background in planning, conducting and preparing staff studies and investigations on a wide variety of complex issues. Considerable experience in legal research and investigation as a basis for legal or disciplinary action. Developed and implemented numerous cost-saving work techniques after identifying inefficiencies in existing procedures.

Public Relations

Constantly in demand as a speaker for civic, religious, business, professional, and education organizations. Closely involved with Albany, Georgia, business leadership in the Chamber of Commerce (1975-1979). Numerous occasions for public recognition through appearances and participation in special events, interviews on television and in area newspapers. Proven ability to communicate well in public spontaneously as well as in planned situations. Many years of experience working with individuals of all stations in life, civilian, military, government service, and business community. High visability in Georgia due to military and political background as well as current position within the Department of Agriculture.

Resume' of Orson G. Swindle, III continued

Education	M.B.A. (Financial Management) -- Florida State University, 1975 B.S. (Industrial Management) -- Georgia Institute of Technology, 1959 Numerous executive training courses ranging from management philosophy to use of data processing.
Civic Activities	Active member of Rotary, past President of the Navy League, Albany, Georgia Chapter; past member of boards of directors for private school, government employees federal credit union and country club; past member of Methodist church administrative board; permananet lay speaker and teacher for Methodist Church in Camilla, Georgia; member of the American Legion and Veterans of Foreign Wars; active member and leader in NAM-POWS, a fraternal organization of Vietnam War Prisoners-of-War; frequent speaker for social, fraternal, education and business organizations.
Political Activities	Republican Party delegate to District, State and National GOP Coventions in 1980; Campaign Chairman for the Reagan-Bush ticket for the presidency in 1980 for the Second Congressional District; attended the Inauguration of President Ronald Reagan in January, 1981; campaigned for Senator Mack Mattingly and Jack Harrell, condidate for the Second Congressional District seat in the Congress, during Campaign 80; active spokesman for Republican Party principles and the concepts and benefits of the private enterprise system.
Military Career	Concluded a twenty (20) year career as a Marine Corps officer at the rank of Lieutenant Colonel having served as an engineering, logistics and administrative officer, fighter pilot in Vietnam, prisoner of war for over six (6) years in North Vietnam, and General Staff Officer in financial management. Recognition for valor includes awards of two Silver Stars, two Legions of Merit, two Bronze Stars, two Purple Hearts, thirteen Air Medals, and the Navy Commendation Medal. Performance appraisals throughout career in the "Outstanding" category.
Personal Data	**Date of Birth: 1937. Excellent Health. Married. Concluded military service as a Lieutenant Colonel, U. S. Marine Corps, in November 1979. National Business Honor Society, Beta Gamma Sigma. Alpha Tau Omega Fraternity.**

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: SWINDLE (Last) ORSON (First) GEORGE, III (Middle)

Position to which nominated: Assistant Secretary of Commerce Economic Development Administration Date of Nomination: July 18, 1985

Phone: (h) 404-546-6941 (unlisted) (o) 404-546-2162/2163

Date of birth: 8 March 1937 (Day) (Month) (Year) Place of birth: Thomasville, Georgia

Marital status: Married Full name of spouse: Gail Glausier Swindle

Name and ages of children: Kevin Patrick Swindle, son, 24 years old

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Florida Stat Univ. Tallahassee, FL.	3/74--6/75	MBA	June 1975
Georgia Tech Atlanta, GA.	9/55--6/59	BS-IndusMgmt	June 1959
Mitchell County HS Camilla, GA.	9/51--6/55	Diploma	June 1955
Mitchell County ES Camilla, GA.	9/43--6/51	n/a	n/a

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

State Director, FmHA--Georgia, USDA (Schedule C appt), Athens, GA
June 1981 to present
General Mgr, M. Cameron Head Construction, Camilla, GA.
January 1980--February 1981 (Schedule C appointment FmHA)
Lt. Colonel, USMC, Financial Mgr USMC Logistics Base, Albany, GA.
August 1975--November 1979 (retired)
Graduate School, Florida State Univ., Tallahassee, FL.
March 1974--June 1975 (graduated with MBA-Finance)
Pilot Training, VMAT 201, USMC Air Station, Cherry Point, NC
August 1973--December 19 (Refamiliarization for POWs)
Prisoner of War, Hanoi, North Vietnam,
November 1966--March 1973
Combat, Danang, South Vietnam
February 1966--November 1966

Employment record—Continued

USMC career officer, August 1959--February 1966. Duty stations included Quantico, VA.; Beaufort, SC; Pensacola, FL; Meridian MS; Kingsville, TX; Corpus Christi, TX; Almeria, Spain; Duties from rank of 2ndLieutenant to LtColonel included logistics, petroleum management, utility and construction, administratio personnel, legal and financial management

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Military Personal Decorations: Silver Star (2); Legion of Merit (2); Bronze Star (2); Purple Heart (2); Air Medal (12); Navy Commendation Medal; Meritorious Service Medal; Presidenti Unit Citation; Vietnamese Cross of Gallantry; Vietnam Service Medal w/3 stars; National Defense Service Medal w/1 star; RVN Campaign Medal w/device.

(Copies of citations available upon request)

National Business Honor Society (Beta Gamma Sigma)

Cash Award for work on developing cash management system for FmHA (USDA) 1984.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Alpha Tau Omega Fraternity	various	1955-1959
Rotary	none	1980-1981
Georgia Agribusiness Council	none	1981-1985
Agriculture Econ Assn of GA	none	1981-1985
Toastmasters		

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Extensive management experience in complex situations and organizations in military, civilian and government service. Track record of outstanding achievement in every assignment, most recent being State Director of FmHA in Georgia as an appointee of the Reagan administration. Experience for four years with FmHA gives me in-depth knowledge of many aspects of EDA programs with economic and community development. Acutely aware of economic problems plaguing rural America. Sincere interest and total personal commitment to making government function more effectively.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Certainly. It would be impossible to do it otherwise.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I do not have any such plans.

3. Has anybody made a commitment to you for a job after you leave government?

Absolutely not.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

My intentions, if confirmed, are to serve the President and people of this country to fullest of my ability in this or any other position I might be asked fullfill.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

None

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I am currently the State Director of Farmers Home Administration in Georgia, a Schedule "C" appointment. I will remain in this position until confirmed.

Financial Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

NONE

3. Are any assets pledged? (Add schedule).

Yes. Schedule attached.

4. Are you currently a party to any legal action?

Only in official capacity as State Director of FmHA along with Secretary of Agriculture, Administrator FmHA, et al, in numerous suits.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

YES

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

NO

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

NONE

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

NONE

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

In the most appropriate, straight forward, correct manner as the situation demands. There should be no conflicts or perceptions of conflicts with which to be confronted.

5 Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I will absolutely comply with all applicable conflict of interest laws and regulations to the letter.

Also see attached.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

NONE

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

NONE

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

With regard to my miliary career and resulting retirement, I am exempt from the Dual Compensation restrictions due combat related disability in excess of 30%. Retention of military retirement while in this position is intended.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Absolutely and gladly.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

None that I can think of at the moment.

AFFIDAVIT

Orson G. Swindle, III) ss. being duly sworn, hereby states that he~~/she~~ has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 12th day of September, 1985.

Notary Public

My Commission Expires April 14,
DISTRICT OF COLUMBIA

SCHEDULE OF ASSETS PLEDGED AS COLLATERAL

Orson G. Swindle, III
Nominee for position of Assistant Secretary of Commerce (EDA)

	Asset	Purpose
1.	Residence (Home)	Mortgage collateral (Camilla, Ga.)
2.	Residence (Condo)	Mortgage collateral (residence at job location, Athens, Georgia)
3.	Residence	Mortgage collateral (rental property, 172 E. Broad St., Camilla, GA.)
4.	Residence	Mortgage collateral (rental property, 172½ E. Broad St., Camilla, GA.)
5.	Residence	Mortgage collateral (rental property, 178 E. Broad St. Camilla, GA.)

Mortgages 1 and 2 are 30 year term of less than $50,000 each.

Mortgages 3, 4 and 5 are 15 year term of less than $30,000 each.

Residential property listed above appraised at approximately $262,000. Total debt secured by property is approximately $144,000.

Other assets pledged as collateral consist of three automobiles (1983 and 1984 models) valued at approximately $24,000 with a debt outstanding of $22,000 for which the automobiles serve as collateral.

Orson G. Swindle, III

9-12-85
Date

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

Mr. Orson G. Swindle, III
Georgia State Director
Farmers Home Administration
355 E. Hancock Avenue
Athens, Georgia 30610

Dear Mr. Swindle:

This is to advise you of the conflict of interest laws and regulations which will apply to you in the event of your confirmation as Assistant Secretary for Economic Development, Economic Development Administration (EDA), U.S. Department of Commerce.

Like all Federal employees, you will be subject to (a) the ethics statutes at Chapter 11 of Title 18 of the U.S. Code (U.S.C.), (b) the Ethics in Government Act of 1978, as amended, and the regulations promulgated under it, and (c) Executive Order 11222 and its implementing regulations, including the Department's regulations on employee conduct at Part 0 of Title 15 of the Code of Federal Regulations (CFR). A copy of the latter is enclosed for your information.

In addition to these statutes of general applicability, you will be subject to the restriction imposed upon EDA grantees by section 711 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. §3221), against hiring certain EDA employees for a two-year period following the award of a grant. This statutory restriction is implemented by regulations at 13 CFR §309.7 and EDA Directive No. 9.02. It is in addition to the general post-employment restrictions at 18 U.S.C. §207, included in the references in the preceding paragraph.

Of primary concern is 18 U.S.C. §208, which prohibits Federal employees from taking official actions in matters in which they have a financial interest. My office reviewed the financial disclosure report which you filed as part of the nomination process. You listed among your interests real estate, accounts in financial institutions, and holdings in corporations with interests in oil and gas, mining, and medical products. Programs and policies of EDA are not likely to affect the holdings in which you have an interest. However, should such a matter develop, you would have to refrain from participating personally, if that is feasible.

If there are situations in which you are required to take official action in contrast to disqualifying yourself, you could divest yourself of those interests or seek a waiver of 18 U.S.C. §208 as to those interests which are insubstantial compared to your total assets and the total outstanding equity of the entities concerned, as provided by 18 U.S.C. §208(b). My office would assist you in any such matter.

I look forward to meeting you. Please feel free to call upon me if I or my staff can be of assistance to you in any matter raised by this letter or in connection with any other legal issues concerning EDA.

Sincerely,

Douglas A. Riggs

Enclosure

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

SEP 19 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Mr. Orson G. Swindle III has been nominated by President Reagan as Assistant Secretary for Economic Development, Economic Development Administration, United States Department of Commerce. I reported to you by letter on July 19, 1985, that the financial interests listed on Mr. Swindle's financial disclosure report (SF-278) will not conflict with his duties as Assistant Secretary.

I have been advised that a confirmation hearing for Mr. Swindle is scheduled for September 24, 1985. In accordance with section 8 of Public Law 98-150 and 5 CFR 734.604(d), a nominee to a position which is subject to confirmation by the Senate must, at or before the first Senate confirmation hearing, update his financial disclosure report regarding outside earned income and honoraria. A member of my staff has discussed with Mr. Swindle the question of income and honoraria received from May 8, 1985, the date he signed his financial disclosure report, to September 19, 1985.

Mr. Swindle has received no honoraria or other earned income reportable pursuant to section 202(a)(1)(A) of the Ethics in Government Act of 1978, as amended, during the period in question. The only earned income Mr. Swindle received since May 8 is the salary he earned from his Government position, which is not reportable.

Sincerely,

Douglas A. Riggs

RESPONSES TO SENATOR LAUTENBERG'S QUESTIONS

QUESTION 1 - SENATOR LAUTENBERG

Mr. Swindle, according to newspaper reports, you believe there is a great deal of waste in the programs of the Economic Development Administration. Would you like to discuss this waste specifically? What is the agency doing that is wasteful, and how would you act to alleviate such waste.

I can think of no organization, either in the public or private sector, that cannot be improved to some degree. It was in this spirit, and with the background of having read some recent material on EDA, that I spoke of the need to reduce waste at the Economic Development Administration.

Specifically, I plan to focus on reducing the large number of delinquent loans in the EDA portfolio. Presently, the delinquency rate is over fifty percent. This is simply unacceptable and I will move quickly to improve debt collection and to monitor borrowers.

In the grant area, I will focus only on projects that have the highest prospects for quick, but also permanent, job creation and move away from speculative ventures that have caused EDA problems in the past. I will also target EDA assistance to the areas of greatest economic distress.

QUESTION 2 - SENATOR LAUTENBERG

Current eligibility criteria for areas benefitting from the EDA program are criticized by many as being too generous. What do you think should be used in the development of such criteria, and would you support legislation tightening the criteria and further assuring the targeting of scare Federal resources to areas truly in need of assistance.

Given the diminished resources available to EDA, it is vital that assistance be targetted to the areas of greatest economic distress. I will do all I can, within the limits of law and regulation, to see that EDA funds go to areas with high unemployment which have experienced low per capita income levels over extended periods of time. I would have to review any specific piece of legislation that would affect the agency before I could comment on it.